

Popular Government

Institute of Government • The University of North Carolina at Chapel Hill

UNC

Bicentennial

Issue

**In
this
issue:**

**The University's
Public Service
Programs**

Also: The Institute's university role
UNC's 200-year evolution
UNC and desegregation

Institute of Government

The University of North Carolina at Chapel Hill

THE INSTITUTE OF GOVERNMENT of

The University of North Carolina at Chapel Hill is devoted to teaching, research, and consultation in state and local government.

Since 1931 the Institute has conducted schools and short courses for city, county, and state officials. Through monographs, guidebooks, bulletins, and periodicals, the research findings of the Institute are made available to public officials throughout the state.

Each day that the General Assembly is in session, the Institute's *Daily Bulletin* reports on the Assembly's activities for members of the legislature and other state and local officials who need to follow the course of legislation.

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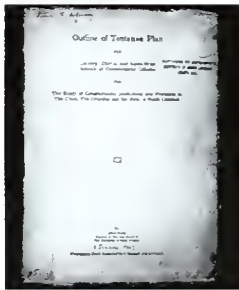
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This issue of
Popular Government
celebrates the
200th anniversary of
The University of
North Carolina at
Chapel Hill.



Popular Government



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On the cover An aerial photograph of the main part of The University of North Carolina at Chapel Hill campus today, looking south from Franklin St. toward the medical complex (at the top of the picture). The sundial and rose garden at the Morehead Planetarium are easily visible at the lower center. Photograph courtesy UNC Department of Facilities Planning and Design. **On the back cover** A plan of the university and town lots, enclosed in a letter from Charles Harris, dated June 1, 1795. Courtesy North Carolina Collection, UNC at Chapel Hill Library.

The University at Chapel Hill in Public Service: Community Partners

Sarah Friday

Throughout its first century, The University of North Carolina served its state by molding its young scholars into successive generations of leaders. But in 1915 its new president, Edward K. Graham, began broadening the university's scope, declaring that the boundaries of the state were the boundaries of the university.

"Research and classical culture are as deeply and completely service as any vocational service," Graham said in his inaugural address in April 1915, but they are "too precious to be confined to the cloisters and sufficiently robust to inhabit the walks of man."

More recently, this philosophy was echoed by William C. Friday, former president of The University of North Carolina system: "The problems of the people are the problems the university must wrestle with," he said. And by Chancellor Paul Hardin of UNC at Chapel Hill: "Our mission has always been a three-legged stool: first, vital teaching; second, cutting-edge research; third, distinguished public service."

"From the beginning, the work done in Chapel Hill has had a profound impact on the state," says Hardin. One of the university's first graduates, Archibald Debow Murphey (class of 1799), laid the groundwork for public schools and better roads. Ideas developed in the 1930s by faculty member Howard Odum were foundation stones of the regional research complex that became Research

The author is a professional writer from Raleigh, North Carolina.

Triangle Park. The nation's first state orchestra, the North Carolina Symphony, had its beginnings on campus in 1932. And in 1937 Paul Green created a new kind of theater: outdoor drama. Today the tradition continues.

"It can actually be said that the outreach of the university never sleeps," Friday says. "It is always moving, always stirring."

In this article *Popular Government* takes a look at some of the ways in which The University of North Carolina at Chapel Hill, through that outreach, serves the people of North Carolina apart from its role in student and continuing education.

Many of the issues the people of North Carolina faced 200 years ago are the same ones they struggle with today, such as quality health care, better schools, efficient roads, and sufficient jobs. Today, more than ever, the university is primed to help its citizens wrestle with these problems.

Health Programs

Area Health Education Centers

It was the little girl's first trip to the dentist, and Katherine Jowers knew it.

Before coming to the Cherokee Indian Health Service Hospital in Cherokee, North Carolina, this summer, Jowers learned that unfluoridated water and a condition called "baby bottle tooth decay" were rotting away the teeth of 30 percent of the children on the reservation, compared to about 5 percent of the children back home.

The girl, age five, needed a crown. So Jowers, a third-year UNC dental student from Asheville, took time to explain the sights, sounds, and smells to her tiny patient before patching the tooth.

Jowers is one of hundreds of students in North Carolina who participate in off-campus rotations each year in hospitals, nursing homes, health centers, and even veterinary schools, with support from the state's Area Health Education Centers (AHEC).

"I just loved it," Jowers says. "You really learn fast after a few days. It's a great service."

Since 1972 AHEC has given such work experience to medical students and residents, as well as students in dentistry, nursing, pharmacy, and public, mental, and allied health across the state. The nine AHEC programs in Buncombe, Forsyth, Guilford, Wake, Nash, Pitt, New Hanover, Cumberland, and Mecklenburg counties also offer training and continuing education to professionals already in the field. All of North Carolina's AHEC programs are based in the School of Medicine at UNC at Chapel Hill; six operate directly with the school; others

are affiliated with Bowman Gray, East Carolina University, and Duke University hospitals and health programs.

"These are not satellites of the university system or the medical school," says Clark Luikart, AHEC's associate director. "They are community partners, and the people in that community view that AHEC as their own."

The national program started as a way to attract and keep primary care physicians and health professionals in areas traditionally underserved. In North Carolina, AHEC is working. Medical students from the UNC at Chapel Hill School of Medicine now earn one-third of their clinical education in AHEC settings. Since 1977, 68 percent of the AHEC family practice residents have stayed in North Carolina; about half first settled in towns of fewer than 10,000 people.

Speaking on the state's program, Edward E. Abrams, director of Wake AHEC, says: "I think we've done the best job in the country as an AHEC. The placement of our health care graduates is a lot better than any other in the country. We would be in very bad shape in North Carolina without all that AHEC has done."

Other Health-Related Service Programs

In addition to providing services through AHEC, students and faculty members in the university's health-related schools serve the people of North Carolina in other ways.

Schools of Nursing and Pharmacy. "Inherent in the practice of the discipline is reaching out to clients no matter where they are," says Susan Pierce, director of the statewide AHEC nursing activities and associate dean for community outreach in the School of Nursing. "You could go into the classroom, tap any student on the shoulder and ask them what they do in the community." Each one will have an answer.

In the School of Nursing, for example, faculty member Shirley Mason takes a group of students to Siler City each year, fanning out to schools, homes, health care, and day care centers in the area. School of Pharmacy students counsel area homeless people taking medication. And they teach elementary school students how to say "no" to drugs.

Student Health Action Coalition. Students also volunteer in Chapel Hill's Student Health Action Coalition (SHAC) clinic, a student-run, faculty-supervised community clinic open each Wednesday night. At SHAC, clients can take a pregnancy test, get a Pap smear, undergo a physical, or even have a tooth filled by students from the schools of nursing, dentistry, medicine, pharmacy, or health administration.



Archibald Debow Murphey (1777-1832), class of 1799. As a university trustee for thirty years, the former professor actively supported public education, improved transportation methods, and revisions to the state constitution, leading to important changes during the pre-Civil War years.



Howard W. Odum (1884-1954) joined the UNC faculty in 1920 and soon after established the School of Public Welfare and later the Institute for Research in Social Science. His research and writing on the South are considered to be instrumental in later progress made in the South.

Courtesy, UNC School of Nursing



Nursing student Christie Furr takes Pablo Vegas's temperature at the Student Health Action Coalition (SHAC) clinic in Chapel Hill. Christie now works in the Critical Care Unit at UNC Hospitals.

© Dan Crawford. Used with permission of AHEC.



The Beechcraft Baron 4-seater is one of a fleet of six such airplanes used by AHEC to take primary medical care directly to clinics and patients across the state; it is shown here at its home field at Horace Williams Airport in Chapel Hill.

School of Public Health. The School of Public Health alone reported 788 outreach projects and activities from 1992 to 1993, ranging from assisting the Davie County school system in analyzing a survey on a smoking ban to aiding the Wake County Health Department in planning AIDS-prevention strategies for special groups.

One project started this year in the School of Public Health aims to improve the kind of health care available to North Carolina's migrant and seasonal workers. PHARMS, the Partners against Hazards and Agricultural Risks to Migrant and Seasonal Workers project, focuses on improving local health services, increasing preventative health practices, and reducing workers' exposure to work-related risks and hazards such as pesticide contamination.

A major thrust of the project is to train lay health advisers among migrant workers (mostly Latinos and Haitians) and seasonal workers (primarily local African Americans) who can spread the word on first aid and pesticide exposure prevention. Improper handling of pesticides can cause skin and respiratory problems, for example, in acute cases, and may lead to cancer, birth defects, and death with prolonged exposure, says faculty member Chris Harlan,

co-coordinator of the project along with Giulia Earle.

North Carolinians also benefit from the work of three other health-focused centers based at the university.

Center for Alcohol Studies. Research in the Hargrove "Skipper" Bowles Center for Alcohol Studies, founded as part of the medical school in 1970, looks for biological origins for alcoholism, genetic traits that may cause the disease, and other factors affecting people who are alcoholics, and their families. The hope is to one day find a treatment or a cure.

Center for Health Promotion. The Center for Health Promotion and Disease Prevention at the university is conducting a statewide effort to increase the fitness of local law enforcement officers and fire fighters. In twenty-five sites across the state, researchers are evaluating a newly mandated fitness program for public safety personnel, who typically run higher risks of disease.

Other projects at the center, which is sponsored jointly by the schools of dentistry, medicine, nursing, pharmacy, and public health, include programs to improve the health of minorities in the state and to reduce high cholesterol in low-income clients who visit rural health centers.

Lineberger Cancer Center. One unique program in the School of Medicine's Lineberger Cancer Center caught the eye of CBS television in September. The center, with the help of the National Cancer Institute, began a project in 1991 in New Hanover County to increase the rate of mammogram screenings among black women. "Save Our Sisters" is doing just that.

"The key is that you involve the community," says Director Jackie Smith, of Wilmington. Now ninety trained advisers go to beauty shops, housing projects, churches, and other locations to share news of the benefits of mammograms. They have raised money, taken women to clinics, and twice brought mobile clinics to them.

"It's just spreading the word," Smith says. "Even if you just save one person, it's worth it."

Children and Families

TEACCH

Chris, ten, cries softly before the tests begin.

Dressed in a Sunset Beach T-shirt, shorts, and Nike tennis shoes, the little boy with sandy blond hair and dark brown eyes clings to his mother at the TEACCH center in the Department of Psychiatry in the university's School of Medicine.

Gently, therapist Debbie Grav coaxes Chris to piece together a puzzle, blow bubbles, draw circles, and write his name. Experts watch through a one-way mirror, looking for signs of autism.

Chapel Hill
TEACCH therapist
Barbara Bianco
works with Colin,
who has autism,
while his mother,
Judy Jenkins,
observes the teach-
ing techniques.



Giulia Earle

Each Wednesday on the South Wing of UNC Hospitals, health professionals such as Gray and Lee M. Marcus, director of the Chapel Hill TEACCH clinic, evaluate children like Chris with a caring, thorough eye.

The tests, and TEACCH—which stands for the Treatment and Education of Autistic and related Communication-handicapped Children—have revolutionized the way autism is perceived. North Carolina's TEACCH has become a model for similar programs around the world.

Autism is a brain disorder characterized by severe communication, social, and behavioral problems. TEACCH, cited by the National Institute of Health as "the most effective statewide program in this country," provides myriad services in addition to evaluations for people with autism and their families: research, diagnostic training, education, and vocational programs.

Before the 1960s, experts blamed parents harboring extreme stress as the cause of autism in their children. Eric Schopler, TEACCH's founder, proved the theory wrong, changing the way people thought about and treated the disorder. Today regarding parents as cotherapists is "a thread that runs through everything we do," says Marcus. Parents, Schopler had reasoned, know their children better than anyone else: together parents and TEACCH could do a lot.

They have. So far, about 4,500 children and adolescents have been diagnosed and served through North Carolina's TEACCH. The program has grown from ten classrooms in 1972 to six regional centers in North Carolina and more than 100 TEACCH-affiliated public school classrooms. The Carolina Living and Learning Center in Pittsboro takes education and vocational training a step further for adults with autism by integrating work situations into the residential setting.

Continuity of programs and centralized coordination of research, training, and services sets North Carolina's program apart, says state TEACCH Director Gary B. Mesibov. "It has really had a major impact all over the United States and all over the world." And, most importantly, at home. North Carolina boasts the lowest rate of institutionalization in the country. Less than 8 percent of autistic adults over age eighteen in the state live in institutions—compared to a national average of 70 percent.

Frank Porter Graham Child Development Center

The university's Frank Porter Graham Child Development Center is also making a difference for families across North Carolina.

In the gray, three-story building off Smith Level Road, some of the country's preeminent research in childhood

development takes place. The center looks into various subjects, such as the ways that early intervention can help children with disabilities, what makes day care effective, how preschoolers interact with peers with disabilities, and how second-hand smoke can affect young lungs.

In North Carolina the center is a training ground for students and professionals, as well as a resource for families, practitioners, and policy makers who want to improve child development and learning. Locally Frank Porter Graham helps community-based programs such as Head Start and preschool programs for children with disabilities through consultations, workshops, publications, and networking. At the state level, the center is helping to coordinate, for example, a comprehensive system of early intervention services for young children and their families, and it has made recommendations on policies concerning programs for academically gifted students.

The most visible service at the center, though, is its Family and Child Care Program that puts into practice the research and curricula developed at the center. Visitors from all over the world regularly view, and simulate, this model day-care facility.

Beth Zalez, lead teacher, helps four preschool children learn basic concepts of shapes by working with modeling clay in a summer 1993 day program at the Frank Porter Graham Child Development Center. The center is a prominent training ground for professionals and an ongoing resource for families and practitioners.



Pat Wesley/Courtesy the Frank Porter Graham Child Development Center

Gail Jones (front right), of the UNC School of Education, shown here with elementary school teachers who participated in Jones's "Sound Ideas" environmental science education workshop in the summer of 1993. Here they are looking through their catch off Cape Lookout.



Daryn Singer/Courtesy UNC School of Education

At first glance the day care's rooms look like most others—finger-painted artwork on the walls, cots on the floor, pint-sized tables with pint-sized chairs. But a closer look shows that 30 percent of the center's sixty-two children have disabilities such as cerebral palsy, Down's syndrome, and speech and language problems. Alongside their peers, they learn through playing.

"We try to demonstrate as much as we can the curricula that's being developed here, and we try to put the research into practice," says Director Anita Payne.

Anne Mackie, of N.C. Equity, addresses the "Long Term Care" session at the 1993 Governor's Consensus Conference on Health Care Reform and Aging. CARES planned, coordinated, and produced many materials for the conference, sponsored by the N.C. Division of Aging.



Center for Aging Research and Educational Services

"Learning is incorporated in everything we do," she adds. "The kids don't know that. . . . It's a fun place for kids to be."

School of Social Work

JOBS. With an eye toward breaking the cycle of poverty and helping families achieve economic security, a program being evaluated by the School of Social Work is putting some of North Carolina's poor back on track.

The federal Job Opportunities and Basic Skills (JOBS) program helps young mothers and families receiving Aid to Families with Dependent Children find work. "North Carolina," says Dean Richard L. Edwards, "is leading the country in the way it is doing the JOBS program." JOBS operates in 75 of North Carolina's 100 counties now, serving more than 19,000 people.

The school's role is to find out for the N.C. Department of Human Resources how JOBS is working in the state. The initial phase took an in-depth look at how twelve counties, including Gaston, Beaufort, and Scotland counties, designed their own JOBS programs. A second phase will follow about 1,800 participants before, during, and up to seven years after JOBS training to see how it enhanced their lives and the lives of their families.

CARES. The School of Social Work is doing its part also in fostering the health and well-being of the state's older adults. As America's population ages and North Carolina attracts a growing number of retirees, the need for quality services to senior citizens becomes vital. The school's Center for Aging Research and Educational Services (CARES) holds the tools to help bring about that change. Its main purpose is to share the resources of the school and university—its research, training, policy, and technical assistance—with the people who serve North Carolina's older adults.

Working with the N.C. Division of Aging and the state Committee on Home and Community Care, CARES assisted in creating, designing, and implementing a new blueprint for a more uniform social and health services system for adults in North Carolina. The 1993-95 Aging Services Plan emphasizes development of county-based programs, instead of state-run programs, to involve local people such as county commissioners in the issues that have an impact on older adults, says center director Gary M. Nelson. "I think we are unusual in taking a more integrated and applied approach," he adds.

In another program CARES initiated a survey in June 1992, with the Division of Aging, to identify pressing policy issues and work-force training needs of agencies that serve older adults, such as councils on aging, social



Courtesy Upward Bound

services departments, hospice programs, and home health agencies.

Public Schools

Math and Science Center

At last count, there were only three black oceanographers worldwide. It's a sad example of the representation of minorities in the fields of science and math, says Russell J. Rowlett, director of the Math and Science Center in the university's School of Education.

The lack of women and minorities entering science- and math-related careers similarly marks North Carolina. So the center is doing something to help through its Pre-College Program, which begins encouraging such careers in middle school by fostering completion of college preparatory track courses in these subjects. The center identifies female and minority students and coordinates middle school electives, high school academic clubs, and related on-campus programs at the university.

The Math and Science Center is one example of how the university is sharing its expertise and resources with the state's public schools. Faculty and students reach out by preparing curricula, leading teacher refresher courses, creating textbooks and software, and organizing and taking part in programs that target hot public education issues such as illiteracy, low SAT (Scholastic Aptitude Test) scores, and school violence.

In 1991-92 alone faculty from sixty-seven departments across campus, coordinated through the Center

for Educational Leadership in the School of Education, aided more than 48,000 public school students and 14,000 teachers and administrators.

"We do have quite an extensive public service program across the university," says David Lillie, director of the center.

Upward Bound

For twenty-seven years the university's Upward Bound program has given high school students from low-income families a stable and supportive road map for getting to college. This year ninety students from Durham, Orange, and Chatham counties are honing their academic skills after school, on weekends, and during the summers.

"I'm not here to say we save everyone," says its director, Joyce Clayton, "but 80 to 90 percent of our students enroll in college."

Principals' Executive Program

In 1982 C. D. Spangler, then head of the State Board of Education, recognized that just as good management in a business can affect success, good management in schools can make a difference in children's education. When his idea, the Principals' Executive Program (PEP), took off in 1984, Chancellor Christopher Fordham of UNC at Chapel Hill described the program as signaling "a new era of more productive collaboration between the university and the public school."

Since then 1,204 principals, 89 superintendents, and 140 assistant principals have graduated under PEP Director Robert Phay's watchful eye. PEP's rigorous professional development programs were based in the Institute of Government up until earlier this year when PEP officially became a separate unit of the university.

"[PEP provides] some of the best training that I have ever received for being a school administrator," says Gary Gaddy, principal of Pinetown Elementary School in Pinetown, North Carolina.

For Gaddy, the twenty-five-day course spanning a four-month period required reading sixteen books and about a hundred articles and publications. It meant getting up at 7:00 A.M. and going to bed at midnight. It delved into leadership, personnel management, personal health, communication, curriculum, legal issues, and motivation. And it changed the way Gaddy directed his school.

"It helps me look at where we are now and where we want to be," he says, noting that it increased his confidence at work and helped him manage his time and resources better as well.

Students study as a group with teacher/tutor André Vann (front right) in Upward Bound's 1993 summer program, jointly sponsored by UNC and the U.S. Department of Education.

An independent study completed in August showed that other PEP graduates concurred. Ninety-six percent of the 741 respondents hailed the course as an excellent professional development experience.

Law and Government

The Institute of Government is the university's oldest and largest unit devoted to public service. Each year 12,000 North Carolina public officials receive Institute of Government training, and thousands more benefit from consulta-

social service agencies, hospitals, prisons, rape crisis centers, and to other agencies in the state.

Students and faculty work one-on-one, as well, in projects that reach into the state's prisons, courtrooms, offices, and homes. One such student program in the law school, the Battered Women's Project, supports victims of domestic violence as they face difficult legal battles.

Each year about seventy third-year law students become a voice for clients unable to afford representation through a legal clinic at the law school. In civil and criminal clinics, the students, under supervision, take on cases referred by the state's courts and Legal Aid program, from traffic violations to the eviction of a family with a handicapped child from their apartment.

"The judges tell us that the students are doing excellent work—as good as lawyers they see in the courtroom or better," says School of Law Dean Judith W. Wegner.

Students with such experience are more likely to participate in pro bono work after graduation, Wegner adds.

City and Regional Planning

The university's public service stretches to governments long on needs but short on funds through the College of Arts and Sciences' Department of City and Regional Planning.

"While it's true we're an international university, we're also very much a part of the community in the ways in which we spend our time," says Michael I. Luger, chairman of the Curriculum in Public Policy Analysis.

Each year masters' and doctoral degree students from the department tackle real-world problems under the direction of David Godschalk.

In one project, which ran from 1989 to 1991, students gathered land-use data, geological surveys, flight patterns, remote-sensing data, and other information to plot a land-use plan for the Fort Bragg military base in Fayetteville. Students also recommended flight patterns to the base that would keep as many planes as possible out of residential areas. Fort Bragg is consulting the plan for a land-use policy requested by the U.S. Department of Defense, Godschalk says.

Highway Safety Research Center

No other agency influences North Carolina's highway laws and policies more than the Highway Safety Research Center based at UNC at Chapel Hill. The center's research on seat belt use, motorcycle and bicycle safety, driving and alcohol, air bags, and other issues is helping to change the way Tar Heels drive.



UNC-CH News Services/Dan Sears

Drivers are learning to buckle up, through the state's new "Click It or Ticket" model program spurred by the university's Highway Safety Research Center.

tion with Institute faculty or guidance from Institute publications, such as Popular Government. (See "The Institute of Government in The University of North Carolina," beginning on page 12 of this issue.)

School of Law

The Institute and its campus neighbor, the School of Law, help the people of North Carolina to understand, interpret, and modify the laws and regulations that affect their daily lives. Last year three law students here stepped into the university's public service role by developing a guide to laws that protect women, called the *N.C. Women's Legal Handbook*. It was distributed to

The center was instrumental, for instance, in the passage of child-restraint seat belt laws in 1982 and 1985, then the adult seat belt law in 1985. "It's the one thing you can do to protect yourself from the bad driver," says Director Forrest Council. "It's the program that I think has the maximum benefit. That's why we pushed it so hard."

The center's efforts and North Carolina's high rate of seat belt usage (64 percent) led it to become a model for seat belt awareness and enforcement campaigns across the nation. With the center's help, the model Click It or Ticket program in North Carolina, begun this fall with a five-year grant from the Insurance Institute for Highway Safety, is striving to increase seat belt usage to at least 80 percent by increasing state and local law enforcement of the child passenger safety and seat belt laws; violators receive a \$25 fine.

Public Opinion

The university's Carolina Poll gives North Carolina citizens a chance to speak out about public issues. Twice a year students from the School of Journalism and Mass Communications, along with the Institute for Research in Social Science, poll about 600 residents on issues that affect their lives, such as gun control, smoking, and the environment. In even years the poll tracks voting preferences of about 1,200 people before state elections.

"We've never embarrassed ourselves with a wrong poll," says faculty member Phil Meyer. In fact, the Carolina Poll was the only poll in the state to predict that Jesse Helms would defeat Jim Hunt (now Governor Hunt) in the U.S. Senate race seven years ago.

Culture

WUNC-FM

It only takes turning a knob to find one way the university enriches the standard of living in North Carolina.

WUNC-FM's classical music, news reports, and national radio programs such as "Morning Edition" and "Prairie Home Companion" reach about 160,000 people in the state each week from Wilson west to High Point.

"That fills up the Dean Dome [the Dean E. Smith Center] about seven times each week," jokes Bill Davis, the station's general manager.

"I view WUNC as exclusively a public service," he adds. The success of the station and National Public Radio depends on providing listeners services they cannot get anywhere else, like more comprehensive news coverage, local commentaries, and a guide to President Bill Clinton's health reforms.

Courtesy Morehead Planetarium



"We want to reflect the diversity of the area and capture a sense of the intellectual richness that exists not only on the UNC campus, but in the entire area," Davis says.

Three students pass some free moments while their class visits the Morehead Planetarium.

Making the Arts Accessible

The university's Ackland Art Museum and Playmakers Repertory Company give children and adults a part in the arts in Chapel Hill. Like another familiar university fixture, Morehead Planetarium, they attract thousands of visitors each year to their creative and colorful events.

Ackland Art Museum. At the Ackland, more than 2,000 elementary and middle school students participated last year in in-school and gallery art programs tailored to complement their school studies of countries, periods, people, and ideas.

Docent Tomoko Yoshitomi points out details of a Japanese screen to a group of fourth-, fifth-, and sixth-grade students at a session of the Ackland Art Museum's week-long summer children's program.

Jerry Blow/Courtesy Ackland Art Museum





UNC students working on a "dig" near Hillsborough; this site contains artifacts from a Native American settlement dating from the beginning of the eighteenth century. At three other sites within a few hundred yards, UNC anthropologists have unearthed evidence of entirely different settlements from as early as the eleventh century A.D.

Playmakers Repertory. Playmakers makes its art more accessible by providing special low-priced weeknight performances, as well as extra matinees at holiday periods when family-oriented productions are featured. Playmakers' educational programs include organized audience discussions (on the first Wednesday of each production) and an educational matinee series, which last year drew 7,000 students from across the state.

Anthropology. The Research Laboratories of Anthropology at the university at Chapel Hill house another rich collection that few people realize exists. Seven million artifacts—pottery, utensils, beads, scissors, and more—fill cabinets, drawers, and shelves in the Alumni Building, making this the largest collection of archaeological remains in the state dating from before recorded history.



Ellen Peirce, associate professor of legal studies, leads a spring 1993 session of the UNC Comphealth/Kron Scholars Executive Education Program.

The varied collection can be used and viewed by anyone with a research interest; scholarly credentials are not necessary.

The artifacts, and research by archaeologists Trawick Ward and Steve Davis, help fill gaps in the state's Native American history. Ward and Davis have been studying Indian villages in North Carolina dating as far back as A.D. 1000, and they have discovered several new tribal sites such as the Siouan Oconeechee, established around 1701 near Hillsborough. A decade of research is helping to piece together a clearer picture of the region at the time explorers and settlers made contact with the Sioux.

Botanical garden. Most Tar Heels know about the university's North Carolina Botanical Garden and its outreach. A rare-plant rescue program attempts to save wild plants such as Michaux's sumac and Sarvis holly from bulldozers and Weed Eaters by saving habitats or transplanting the plants to safer ground. In addition, the botanical garden's extensive hortitherapy program has gained national recognition for helping children with disabilities, people with head injuries, senior citizens, and others needing special care.

"We want people to feel like this is their state botanical garden," says Director Peter S. White. "It exists to put them in the growing, green world."

Business and Technology

Small Businesses

Tom Woodruff felt like a snagged mackerel.

About ten years ago he was caught in an accounting job, wanting to start his own fishing supplies business in Cary. Unsure how to proceed, Woodruff called the university's N.C. Small Business and Technology Development Center (SBTDC) in Raleigh. With the center's help, he changed his direction from a freeze-drying firm to a successful bait-and-tackle shop called "Nature's Own Sportsman."

"It was a gamble," Woodruff says from his shop chock full of lures, flies, nets, and rods. "I had a good job at the credit union. It was hard to leave. But I don't have any regrets. I thoroughly enjoy this."

SBTDC helped Woodruff to define his market through telephone surveys and to develop a business plan. "They just knew the shortcuts of how to get things done the best and shortest way," he says.

In twelve centers around the state, SBTDC supports North Carolina's economy by helping small- and mid-size businesses like Woodruff's start up, grow, and profit, says Executive Director Scott Daugherty. The service is free,

in-depth, and typically one-on-one, reaching about 5,200 clients a year.

SBTDC aids special markets as well, by helping North Carolina businesses expand internationally, refine new technologies, and land government contracts.

Business School Executive Program

North Carolina's economy also feels the impact of the university's Kenan-Flagler Business School Executive Program. Each year companies such as Burlington Industries, Northern Telecom, Burroughs Wellcome, and Wachovia send their managers and young executives back to school in a program rated recently as one of the best in the world by the *Wall Street Journal*.

One program, the Advanced Management Program for executives with an average of fifteen years experience, gives participants a professional edge by lending expertise in global competition, leadership skills, problem solving, and business strategy in intense course work over a month, or in four short sessions throughout the year.

"It behooves us as the state university to be able to provide that resource to North Carolina firms," says Peter Topping, director of marketing for executive education. "There's never an end to the need to learn."

Information and Library Science

Good business often depends on how well and how fast information gets from one place to another. A major thrust of the School of Information and Library Science at the university is training librarians to manage the flow of information and technology. The resources and staff in the school's own library, the largest of its kind in the Southeast with more than 80,000 volumes, are available and used by professionals in schools, academic libraries, public libraries, and corporations throughout the state. And in May 1993 the School and Mead Data Central sponsored a two-day seminar in Chapel Hill for corporations such as IBM, Microsoft Corporation, and MCI Telecommunications looking for better ways to access the "information highway."

Conclusion

For 200 years The University of North Carolina at Chapel Hill has enriched the quality of life in North Carolina through education, research, and outreach programs such as the Institute of Government, the Business School Executive Program, and AHEC.

But a recent report published in Raleigh's *News and*



WUNC-FM ranks among the leading public radio stations in the country in degree of listener support. The 1993 fall fundraiser again drew a record amount of financial pledges from North Carolina audiences.

Observer asked whether UNC at Chapel Hill and the other Triangle universities are doing enough at a time when crime, unemployment, poverty, and other critical problems still plague our society. *The News and Observer* commissioned urban planner Neal Pierce and a team of experts to study the status of the Triangle, and it ran their report in September.

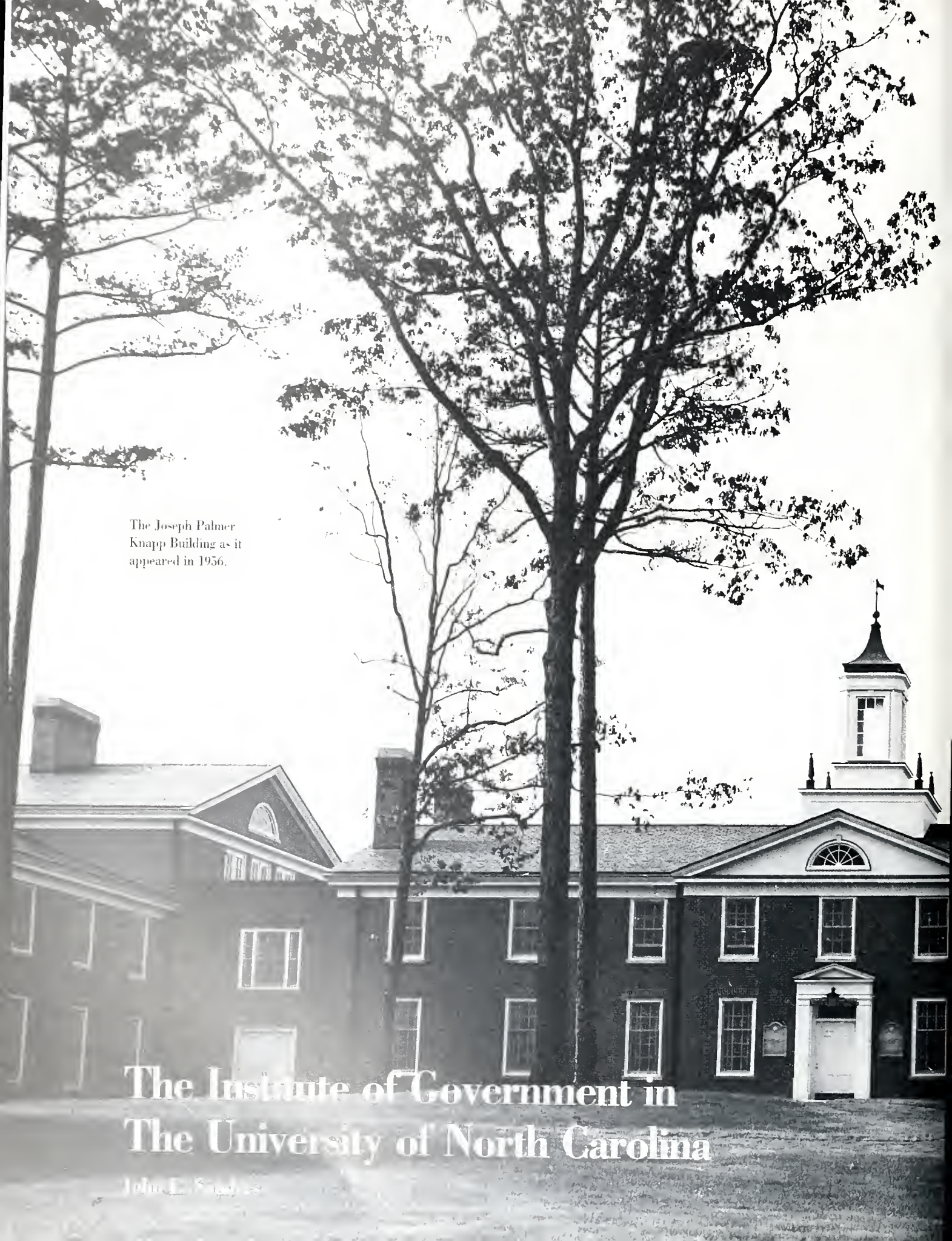
"A key to solving social ills is harnessing the knowledge and energy of Triangle universities," the report states. "The question is whether the universities care enough to take the lead."

The University of North Carolina is taking the lead. Evidence is a Public Service Roundtable formed to ensure future outreach success. The ad hoc committee of the Chapel Hill faculty in fact was organized two years ago with an eye toward identifying campus resources and improving communication about those resources among faculty leaders and to the legislature and the public.

Currently, the eleven-member committee is collecting lists of public service projects throughout the university for an ongoing data bank. It also is planning a bus tour of North Carolina in 1994 for faculty members. The tour will provide an opportunity for the faculty to view the needs of the state first-hand and, in turn, allow its citizens to learn more about available university services, says law school dean Judith Wegner, who co-chairs the Roundtable with Institute Director Michael R. Smith.

Such efforts show that, in the spirit of Edward K. Graham, the partnership between the university and the people of North Carolina continues.

"Urban planning experts tell us that universities need to take a major role in responding to the needs of the communities they serve, and in helping to focus public debate," says Governor Hunt. "These programs are clear evidence that The University of North Carolina at Chapel Hill is doing just that. The university has discovered important areas of need in our state and has found innovative ways of addressing them." ♦



The Joseph Palmer
Knapp Building as it
appeared in 1956.

The Institute of Government in The University of North Carolina

John E. Smith

The Institute of Government is today a unit of The University of North Carolina at Chapel Hill—well known, accepted, respected, and often cited by both the university's president and chancellor as one of the most effective instruments of university service to the state of North Carolina. It was not always so, however, and this article reviews how the Institute became part of the university and why it matters that it is—matters to the Institute itself, to the university, and to the state.

Albert Coates and the Institute

The early decades of the Institute of Government cannot be discussed without also discussing Albert Coates. He was its founder, and for thirty years its identity and his fused in ways that often defied distinction. Coates was a Johnston County native, a 1918 graduate of the university at Chapel Hill, and a 1923 graduate of the Harvard Law School, whence he came directly to the faculty of the School of Law of The University of North Carolina. Coates soon found the routine of law school teaching to provide an inadequate outlet for his high energy and ambition for service.

Coates had come to maturity in the hopeful years of the Progressive Era of American politics, when the conviction was widely shared that the public institutions of the nation were perfectible, and that perfecting them was worthy of the best efforts of the best citizens. He idolized university President Edward Kidder Graham (1914-18), who eloquently voiced the idea that the

John L. Sanders has been a faculty member of the Institute of Government since 1956 and was Director of the Institute for twenty-five years.

resources of the university should be put to the service of the people of the whole state, not just those who sought its degrees. And he had been a student of Professor Eugene Cunningham Branson, who in nineteen years (1914-33) on the Chapel Hill faculty made the governmental, social, and economic institutions and policies of the state of North Carolina and its communities legitimate subjects of research by professors and of study by students. As a senior, Coates had assisted Branson in his studies of local governments in North Carolina. From that fertile seedbed came the idea of the Institute of Government.

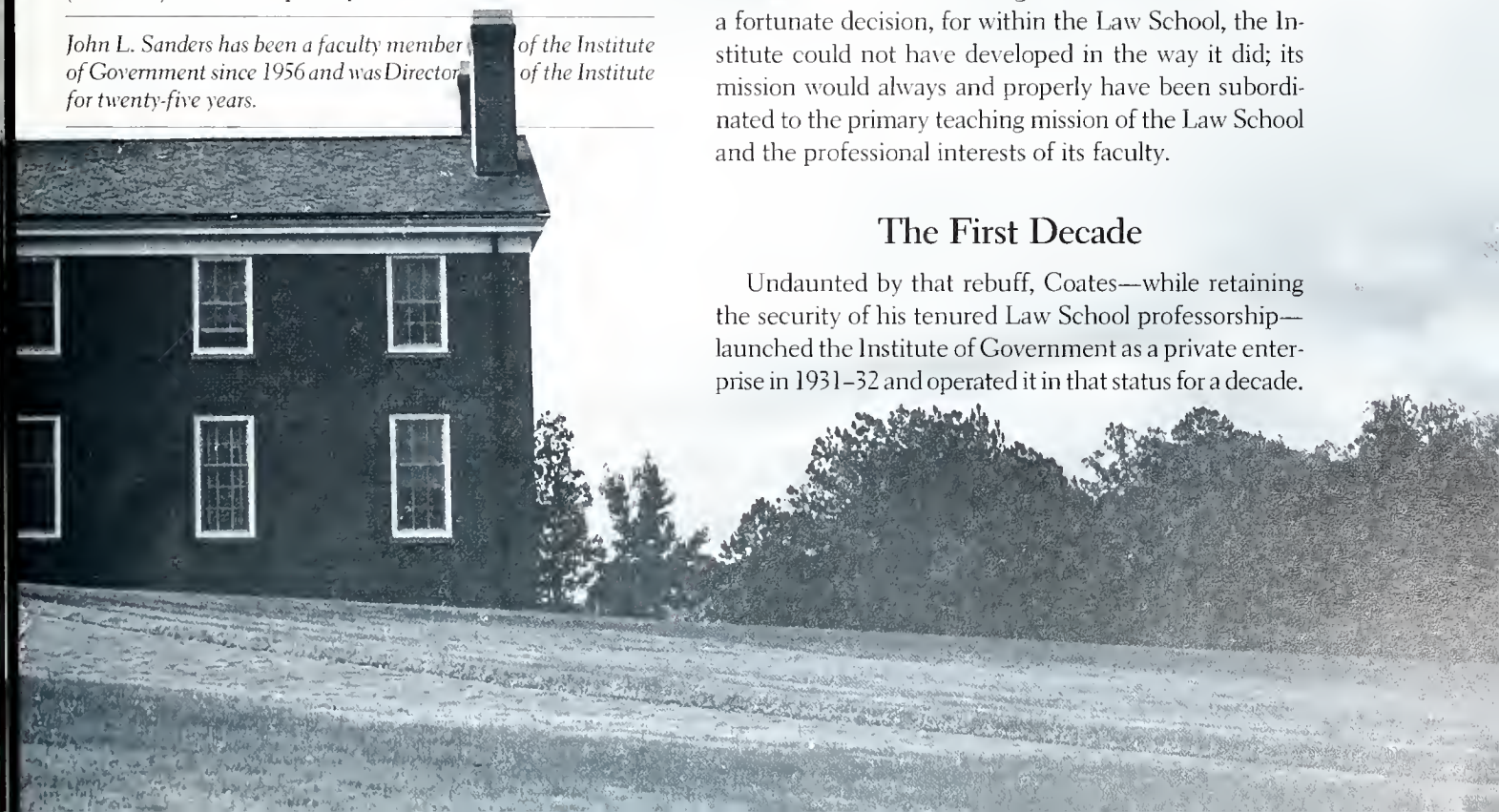
The Institute Is Born

As Coates studied and taught criminal law and government administration generally, he became convinced that the public officials of the state and its counties and cities had a deep need for organized instruction, research, and advice, and that meeting that need was a task for a permanent, university-based corps of able scholar-teacher-writer-advisers.

His early idea was to enlarge the scope of the Law School to add that public service role to the traditional one of preparing students for law practice. The dean and faculty of the Law School disagreed. The Great Depression was forcing the university's budget to be cut and with it faculty salaries, and there was no money for new ventures. There were philosophical objections as well: that was not the sort of thing law schools did. That was a fortunate decision, for within the Law School, the Institute could not have developed in the way it did; its mission would always and properly have been subordinated to the primary teaching mission of the Law School and the professional interests of its faculty.

The First Decade

Undaunted by that rebuff, Coates—while retaining the security of his tenured Law School professorship—launched the Institute of Government as a private enterprise in 1931-32 and operated it in that status for a decade.

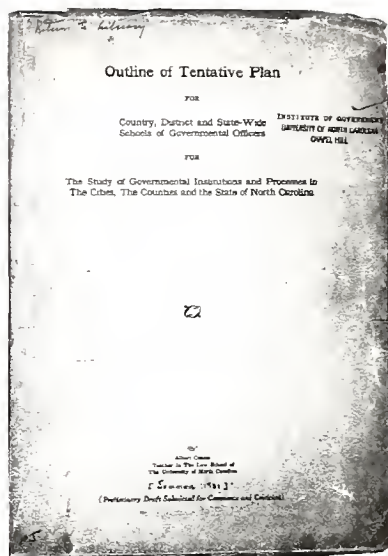




Albert Coates, founder of the Institute of Government and Director from 1932 to 1962



Gladys Hall Coates, the founder's wife and mainstay throughout the Institute venture



In the summer of 1931, Coates drafted a plan (right) to establish a program to train "government officers."



William B. Bankhead, Speaker of the U.S. House of Representatives, spoke in Hill Hall at the 1939 dedication of the Institute's first building. Albert Coates is at the extreme left in the photograph.

Since the 1935 legislative session, the Institute's Legislative Reporting Service has published daily reports on legislation introduced and acted on in the General Assembly. In this photograph of the 1967 session of the House, Milton Heath, Jr., and Joseph Ferrell of the Institute faculty can be seen at the far left of the long desk in the front of the hall.



The first two issues of *Popular Government* (published in 1931 and 1932) did carry the name of The University of North Carolina on its masthead, but that designation was dropped by 1933 in compliance with an understanding reached between Coates and the university administration. Though physically proximate to the university and dependent on its borrowed facilities for schools held in Chapel Hill, the Institute had no financial or organizational tie to the university. The only connection was through the person of Coates, who precariously (and at times perilously) balanced his unpaid role as Institute Director and his paid role as Law School professor.

During the 1930s and into the early 1940s, the Institute was financially dependent on the labor and means of Coates and his wife, Gladys Hall Coates (who was to be his mainstay throughout the Institute venture), the generosity of several civic-minded businessmen, and the dues contributions of counties and towns—voluntary contributions, scaled according to the population of the county or town. These sources supported the initial employment of a professional staff of three in 1933 and its maintenance for about five years; then lack of funds compelled resort to staffing with temporary and part-time (often student) staff members and other bridging expedients to keep the program going.

Coates projected the mission of the Institute from the beginning in very broad terms: teaching, research, publishing, and consulting for the benefit of North Carolina town, county, and state government officials and employees, to the end that they might serve the citizens more effectively, efficiently, responsively, and responsibly. Through the work of early staff members, significant strides were made toward the realization of that grand scheme, especially in the fields of criminal law and its enforcement, property tax administration, elections administration, and the courts. They established the identity and credibility of the Institute as an organization whose staff members were concerned about the quality of government throughout North Carolina and were available and competent to help those with governing responsibilities to perform to their highest ability and ambition.

In 1939, with a combination of gifts and loans, the Institute of Government built its first permanent quarters, located across East Franklin Street from the university campus.

Into the University

In 1940 William D. Carmichael, Jr., recently chosen as the university's controller, took an interest in the Institute of Government and joined forces with Coates to secure its incorporation into the university. Governor

J. Melville Broughton agreed to recommend to the General Assembly of 1943 an appropriation of \$15,000 a year to begin state support of the Institute program. J. Spencer Love of Greensboro gave \$20,000 to keep the Institute in operation through 1942 and until state funds would become available in mid-1943. Coates was to retain title to the Institute's building until all debts he had incurred on behalf of the Institute (some of them secured by mortgage on the building) were paid. With these elements in place, the Executive Committee of the Board of Trustees of the University on January 20, 1942, approved preliminarily and on January 27, 1942, ratified the terms of the agreement "covering the comprisal of the Institute of Government as a Public Service Department of the University . . .," effective January 1, 1942. The accounts showed the Institute's net worth then to be \$2,096.96.

In a February 1942 *Popular Government* article announcing the entry of the Institute into the university, Coates wrote:

Classrooms, libraries, teaching and research personnel of the Greater University will draw new knowledge, new insight and new inspiration from their associations with these [public] officials, as the Institute of Government links The University of North Carolina in a working partnership with city hall, county courthouse, state department and federal agency in professional training for the public service.

From that date onward, *Popular Government* and all other publications of the Institute of Government have proudly carried notice of its identification with the university.

From 1942 to 1962

The General Assembly of 1943 responded to Governor Broughton's recommendation and the sponsorship of Representative John Kerr, Jr., of Warren County and appropriated \$15,000 a year from the General Fund for the support of the Institute during 1943-45. The General Assembly of 1945 appropriated \$44,000 to pay off the debts of the Institute on condition that all property of the Institute be transferred to The University of North Carolina. Those debts, totaling \$41,612, were paid and the Coateses on July 30, 1945, conveyed all real and personal property of the Institute to the university. While appropriations during the ensuing two decades grew substantially, the state never undertook to meet the whole cost of Institute operations. Substantial reliance was then (and continues to be) placed on support in the form of city and county membership dues, publication sales, and other nonappropriated funds. By 1961-62, state appropriations



Governor J. Melville Broughton in 1943 recommended that North Carolina begin giving state support to the Institute. The General Assembly approved.



William D. Carmichael, Jr., the university controller in 1940, worked with Albert Coates to have the Institute incorporated into the structure of the university.



Chancellor William B. Aycock in 1957 recommended that Institute professional staff be eligible for full university faculty status.



Institute members participated in the Charlotte and Mecklenburg County merger committee in 1947. Seated at left is Albert Coates; in the middle is Henry W. Lewis, who later became the Institute's third director. Standing at left is Terry Sanford, who was a special agent of the FBI before he was appointed to the staff of the Institute in 1946 to expand its training program for law-enforcement officers. Standing next to him is William McW. Cochrane, then on the Institute staff and since 1954 a member of the U.S. Senate staff.

The original Institute of Government building on Franklin Street was built in 1939, financed by private gifts and loans. The 1945 General Assembly paid off the Institute's debts, and the university took ownership of the building.





Bob Dornan

John L. Sanders,
Director of the
Institute of Gov-
ernment from
1962 to 1973 and
from 1979 to 1992

had risen to \$254,154 a year, while other sources provided \$146,162 for Institute operations.

The exigencies of World War II, with its demands for manpower for the military and defense industries, hampered significant growth of the Institute in response to its new university status until the mid-1940s. Beginning in 1946 with the appointment of Henry W. Lewis to the staff, the Institute acquired a professional staff of several men on whose quality, ability, devotion to the Institute and its mission, and longevity in its service the modern Institute of Government was built. Others came and worked productively for short or long periods, but the achievements of the several men who entered its service from the mid-1940s to the mid-1950s and committed their entire professional lives to its work laid the foundation on which those who followed have been able to erect a broader and taller edifice. They also confirmed within the Institute many enduring traditions: that no request of a public official that is within the Institute's scope is unworthy of its doing; that everything done in the name of the Institute must be of the highest quality; that its institutional independence and integrity are invaluable assets, hard won and easily lost; that Institute faculty representatives are at all times representatives of the university as well and so obligated to meet the highest standards of accuracy and objectivity; and that the role of the Institute is to *help* public officers and employees learn to serve the citizens of the state more effectively, not itself to become a policy maker or an opinion leader.

By mid-1962, the faculty of the Institute numbered nineteen men and women and the full-time supporting staff (all under the State Personnel Act) another twenty-two employees.

The Director of the Institute is elected by the Board of Governors of the university on recommendation of the Chancellor of The University of North Carolina at Chapel Hill and the President of The University of North Carolina. The term is five years, indefinitely renewable. Only four people have held that title in sixty-one years: Albert Coates (1932-42 by his own designation and 1942-62 by university designation), John Sanders (1962-73 and 1979-92), Henry W. Lewis (1973-75), and Michael R. Smith (1992-date).

The Director of the Institute has always reported to the chief academic officer of The University of North Carolina at Chapel Hill, whose title has evolved from Dean of the Faculty to Provost to (now) Provost and Vice Chancellor for Academic Affairs. The Institute's place in the university structure corresponds to that of a professional school (such as the School of Law or the School

of Education) in the Division of Academic Affairs. The Director since 1974 has sat on the Committee on Instructional Personnel, which advises the Provost and Vice Chancellor for Academic Affairs on academic personnel issues and transactions.

With the growth in its professional complement during its first two decades in the university, the Institute broadened and deepened its established teaching, research, publishing, and consulting programs and ventured into new areas, such as land-use planning, that it had not previously had the capacity to treat or that had recently emerged as concerns of government that were new in kind or in scale.

The most striking and tangible achievement during that period was the acquisition of the Joseph Palmer Knapp Building, completed in 1956 and financed by a \$500,000 grant from the Joseph Palmer Knapp Foundation and a matching appropriation of \$500,000 from the 1953 General Assembly. Designed for and occupied solely by the Institute, it provides office and supporting facilities for all Institute employees, classrooms for all on-campus teaching done by the Institute for the several thousand public officials who come to Chapel Hill each year for Institute schools, and a residence hall for the accommodation of people attending Institute events.

During that same period came a series of mutations in the status of the professional staff of the Institute. The first staff members were appointed in 1933 and designated by the Director as "Associate Directors." (No academic title would have been appropriate, since the Institute was not part of the university.) That familiar, administrative-type title doubtless was advantageous in dealing with public officials. And perhaps the *beau geste* of appointing *three* Associate Directors implied a much larger organization, one actually capable of realizing the grand design projected by its founder. By the mid-1930s, the generic designation of "staff member" was being applied to a variety of full-time and part-time employees. The title "Assistant Director" came into consistent use in 1944 to identify the full-time, relatively long-term members of the professional staff and it continues to be available.

In 1951, under an arrangement agreed upon between Coates and Chancellor Robert B. House, members of the professional staff of the Institute were given professorial titles with a "Research" prefix—"Research Professor of Public Law and Government," for example. Rarely used by those who bore them, those designations carried no tenure benefits, not having been acted on by the University Board of Trustees, the only body authorized to make tenure-carrying appointments. The "Public Law and Government" part of the title was chosen to reflect what

the Institute did, while avoiding confusion with the School of Law or the Department of Political Science.

In 1957, William B. Aycock succeeded Robert B. House as Chancellor. At Coates's request, and in conformity with an informal decision made several months earlier by House, Aycock recommended to the President and Board of Trustees that all then-current "Research"-designated appointments in the Institute be converted to their equivalent regular faculty ranks (the "Research" modifier simply being dropped), and that all future appointments in the Institute be processed in the same manner and have the same tenure consequences as those in the professional schools in the Division of Academic Affairs, such as the School of Law. The Board of Trustees agreed, and thus the Institute faculty acquired full faculty status in the Institute, a very unusual arrangement for university institutes and centers in this and other universities. (All Institute faculty members continued to be employed for year-round service, rather than for the academic year as are most university faculty members in the Division of Academic Affairs.)

In 1993, responding to a proposal from the Institute of Government, the Provost and Vice Chancellor for Academic Affairs agreed to broaden the range of available faculty designations to include those of "Professor of Public Management and Government" and "Professor of Public Finance and Government" to reflect more precisely the professional backgrounds of some Institute faculty members who are not lawyers.

From 1962 to 1992

The total operating budget of the Institute grew in the second thirty years of its life: from \$400,316 in 1961-62 to \$6,130,699 in 1991-92. The state-appropriated share of that budget rose from \$254,154 in 1961-62 to \$4,206,168 in 1991-92.

The faculty grew also, from nineteen in 1962 to thirty-eight in 1992. The full-time supporting staff experienced comparable growth, from twenty-two in 1962 to forty-seven in 1992, reflecting the extensive editorial, printing, library, administrative, and other services provided for the support of faculty members by the early 1990s.

The faculty not only grew in numbers but in variety of disciplinary credentials, and came to include an economist, several organizational psychologists, a tax appraisal specialist, a public finance specialist, and other specialists required to sustain the increasingly diversified teaching, consulting, and research programs of the Institute. Much more emphasis came to be placed on public management training, for example, and on work with public school and



other administrators in their capacity as managers of people, budgets, and other resources. All of these program expansions could be comfortably sheltered under the broad tent of Coates's early design for the Institute. Some programs waned—for example, law enforcement, a field of heavy emphasis in the Institute's early decades, was largely relinquished to the community college system with its larger, statewide institutional capacity to do the job and to the North Carolina Justice Academy. That program reduction made possible substantial growth in the Institute's work with court officials—judges, magistrates, prosecutors, public defenders, and clerks among them.

Although teaching degree-seeking university students has never been part of the Institute's formal responsibility (the Institute is funded as part of the extension function of the university), Institute faculty members have taught in other schools and departments of the university for more than four decades. From the late 1940s until 1962, members of the Institute staff and faculty did much (and sometimes all) of the teaching in Coates's Law School courses in Criminal Law, Family Law,

An Institute class for county accountants in 1960 (above) and a seminar on police and community relations in 1967 (below).





Henry W. Lewis,
Director of the
Institute of
Government
from 1973 to
1979



Institute faculty member Joan Brannon conducts a session of the 1992 Small Claims School for Magistrates (above).



The Institute has developed and expanded its management training programs in the last 20 years. Faculty members (above, l to r) Kurt Jenne, Roger Schwarz, Margaret Carlson, and Richard McMahon discuss details of the management curriculum.

Began in 1984 as part of the Institute on the initiative of State Board of Education Chairman (and now University President) C. D. Spangler, Jr., the Principals' Executive Program has trained over 1,400 public school principals and superintendents in advanced management skills. By 1993, PEP had developed to a size that enabled it to move out of the Institute and achieve parallel status in the university structure. In February of 1994, the thirty-seventh PEP class (below) will graduate from the 25-day course.



Courtesy Principals' Executive Program

Municipal Law, and Legislation. They were there as his surrogates and by his designation, freeing him to put most of his time into Institute affairs. Upon the invitation of other university departments, Institute faculty members assumed full responsibility for teaching courses offered by those departments—Planning Law and Administration in the Department of City and Regional Planning in 1947, Municipal Administration in the Department of Political Science in 1955, Personnel Administration in the same department in 1963, and other courses in the School of Public Health, the School of Social Work, and other schools and departments. The course list has changed from time to time, but in recent years Institute faculty have taught about half a dozen three-semester-hour departmental courses a year. For the few Institute people involved, this provides an opportunity to study and maintain wider currency in their fields than their Institute duties might require and an occasion to teach undergraduate and graduate students who in their subsequent careers often become Institute clients. And such teaching enables host schools and departments to provide their students with instruction by specialists with a range of knowledge and experience gained in working directly with public officials.

To a much more limited extent, the Institute has drawn upon members of other university departmental faculties as teachers in Institute-sponsored schools and as collaborators in Institute-initiated research activities.

Since the time they gained quasi-faculty status in 1951, Institute representatives have taken an increasingly active part in university government. Much administration and policy making in the university is performed by, or with participation by, committees of faculty members. Institute faculty members are extensively involved in those committees, including the chairmanship of several of them—the University Government, Faculty Grievance, and Buildings and Grounds committees among them. The legal training of most Institute faculty members has made them especially useful as hearing officers in faculty and staff personnel grievance procedures. And most of the time for at least thirty years, there has been Institute representation on the Faculty Council, the legislative body representing the whole university faculty.

Institute faculty members have also been drawn into university administrative roles: Henry W. Lewis served as Acting Vice President of the university in 1968–69, John Sanders as university Vice President for Planning in 1973–78, Joseph S. Ferrell as Acting Assistant Business Manager of the university at Chapel Hill in 1966–67, and several others as consultants to university administrators from time to time.

This involvement by Institute faculty members in university government has had several values. It has given them a better understanding of how the university functions, and it has brought them wider acquaintance among faculty colleagues throughout the university. As specialists in their respective fields whose work is with public officials, not university students, Institute faculty members have relatively little professional contact with faculty members outside their disciplines, except as participation in committees and other activities transcending departmental boundaries occasions it. Through such participation, Institute representatives have come to know and be known by colleagues across the university. One signal benefit has been to raise familiarity with and respect for the Institute among university faculty members who have no occasion for contact with the Institute in its primary work.

The retirement of Albert Coates from the directorship of the Institute in 1962 closed a unique era in the organization's history. For thirty years, he had been the highly visible founder, continuing presence, and vocal public advocate of the Institute. Some people within the university and in Raleigh so identified the man and the institution that they had difficulty seeing the latter for the former, or conceiving of one without the other. When the time came, however, the transition to new leadership was accomplished smoothly, with no slackening of institutional speed or commitment, and observers in Chapel Hill and Raleigh soon perceived what the public officials of the counties and cities had known for many years: that the Institute was in fact a company of able, dedicated, informed, concerned, and involved professional people who were providing them with the instruction and advice they needed to do their jobs effectively. Subsequent transitions in the directorship in 1973, 1979, and 1992 have been equally uneventful. Most Institute clients have been hardly aware of those changes unless the faculty member who had worked most closely with them had moved into the directorship and out of their immediate service.

The Meaning of It All

What is the significance of the evolution of the Institute of Government from its beginning as the personal project of an individual to an integral, institutionalized part of The University of North Carolina at Chapel Hill?

The Institute's university connection is important to the Institute itself because it makes the Institute a beneficiary of and a contributor to the long and important tradition of direct service by this university to the people

of North Carolina. It reminds Institute people that their work must always meet university standards of accuracy and integrity. It makes the Institute a sharer in the respect and reputation that this university enjoys throughout North Carolina and the nation. It gives the Institute access to state appropriations, which provides vital financial stability to its operation. It enables the Institute to call upon other university facilities and services in support of its work. It is of immense value in drawing and retaining the services of able faculty members who might not be attracted to a government-based job doing similar tasks. They value highly the association with the university and colleagues here and the security from political ebbs and flows that sometimes affect governmental agencies and create unwelcome discontinuities in programs and in employment. In return, faculty members are expected to follow a self-imposed Institute policy of neutrality with respect to political candidacies and causes.

The Institute's university connection is important to *The University of North Carolina at Chapel Hill* because the Institute has long been a major carrier of the outreach tradition of the university, especially to governments. It enables the university to reach and serve, directly and indirectly, many citizens who are not otherwise touched by the university, as well as many who are. It brings into the internal service of the university faculty members whose work with public officials, much of it done outside Chapel Hill, gives them a familiarity with the state and its people that is unmatched within the university.

The Institute's university connection is important to *the state of North Carolina* because it puts in the service of all the state's people and their governments an organization that has not only strong professional competence but disinterestedness of purpose, political objectivity, and stability and continuity that would otherwise be unattainable.

Conclusion

The "comprisal" of the Institute of Government into The University of North Carolina at Chapel Hill in 1942 was, second only to its founding a decade earlier, the most important event in the history of the Institute. That action gave the enterprise financial stability, institutional continuity, and political sanctuary, characteristics that have all been vital to its survival and present effectiveness. For that action, and for the support that they have given over the intervening years, the Institute of Government has continuing reason to be grateful to university administrators and trustees as well as to the people of North Carolina, who sustain the Institute and whom it serves. ❖

Bob Dorman



Michael R. Smith.
Director of the
Institute of Gov-
ernment since 1992

The University of North Carolina: The Legislative Evolution of Public Higher Education

John L. Sanders



Almost a quarter century after the 1971 General Assembly created the present structure of The University of North Carolina—incorporating into it all sixteen degree-granting institutions—the 1993 General Assembly has refocused legislative attention on the university. Only a few 1993 legislators were in the General Assembly in 1971 and remember the circumstances surrounding the dramatic action that led to the restructuring act of that year. None can know first hand the story of the longer-term evolution of public higher education that culminated in the current structure. This article reviews the legal development of the university's structure and organization over the last two centuries in the hope that it will be helpful to the Legislative Study Commission on the Status of Education at The University of North Carolina¹—directed to study teaching, research, student performance, accessibility and affordability of higher education, institutional funding and financial management, library services, and faculty compensation in the university; and the quality of the sixteen institutions in comparison with their peers—to the General Assembly, and to interested North Carolinians.

In 1800 The University of North Carolina comprised one institution with one board of trustees, one president, one faculty, and one student body, occupying four buildings on one tract of land in southern Orange County. Today The University of North Carolina has been redefined by successive legislative actions to comprise sixteen degree-granting institutions with sixteen boards of trustees and sixteen chancellors, a special-purpose preparatory school (the School of Science and Mathematics at Durham), a teaching hospital, a university press, an educational television system, and several other enterprises, all under the management of one board of governors and one president, and stretching from Elizabeth City to Cullowhee.

The structure and organization of public higher education in North Carolina—and related factors influencing educational planning, allocation of functions and resources, maintenance of quality, and evaluation of performance of the constituent institutions—have proved controversial generation after generation. They remain so today, with increasingly frequent public discussion of the relationship of the largest and most highly funded institutions—North Carolina State University at Raleigh and The University of North Carolina at Chapel Hill—to the multicampus university, of their boards of trust-

ees to the board of governors, and of their chancellors to the president.

From the point of view of the institution at Chapel Hill, the last century has brought accelerating requirements to share the field of public higher education in North Carolina. An unduly simple, but prevalent, point of view equates that requirement with a concomitant erosion of effectiveness. But, as this article will demonstrate, there has been no steady flow in that direction. In fact, the institutions at Chapel Hill and Raleigh have more freedom of action and initiative today than they had between the 1931 consolidation of the institutions at Greensboro, Raleigh, and Chapel Hill and the 1972 expansion to the full sixteen—a forty-year period when neither had a board of trustees of its own, when each chancellor had more limited functions, and when operations were subject to much closer observation by the president than is true today.

1776 to 1931

One of the first actions of the State of North Carolina after it declared independence in 1776 was to adopt a constitution that directed in part that “all useful Learning shall be duly encouraged and promoted in one or more Universities.”² The General Assembly of 1789 responded to that mandate by declaring that

Two students walk past the statue of Charles Duncan McIver at The University of North Carolina at Greensboro (far left). The statue portrays the first president of the State Normal and Industrial School (now UNCG) and stands in front of Jackson Library at the center of campus.

Pembroke State University's historic Old Main building (below), the campus landmark built in 1923, was the first brick building constructed on the campus.

Pembroke State University



John L. Sanders has been a faculty member of the Institute of Government since 1956 and was Director of the Institute for twenty-five years.



Elizabeth City State University

Seat of Knowledge, a statue depicting Peter Weddick Moore, the first president of Elizabeth City State University, stands in front of the C. W. Griffin Education and Psychology Center on the Elizabeth City campus.

Whereas, in all well regulated governments it is the indispensable duty of every Legislature to consult the happiness of a rising generation, and endeavour to fit them for an honourable discharge of the social duties of life, by paying the strictest attention to their education; And whereas, an university supported by permanent funds and well endowed, would have the most direct tendency to answer the above purpose . . .

and by accordingly establishing The University of North Carolina. That legislative charter put the institution under the control of a board of trustees, forty in number, its initial members being named by the General Assembly to serve for life, with the power in the board to elect their successors for life terms as vacancies occurred in their number.⁵ The only continuing help given the university in the form of "permanent funds" was certain old debts due the state and the escheats that came to the state as sovereign. (Not until 1881 did the university begin to receive regular legislative appropriations of state funds.) In 1865 the new state constitution gave more explicit recognition to the university and provided for the reconstitution of its board of trustees, as did a superseding 1875 constitutional amendment and related statutes. Throughout that initial eighty-year period, the university at Chapel Hill was the only state-sponsored institution of higher education in North Carolina.

Beginning in 1877, the General Assembly created or acquired for the state the other fifteen institutions that are today part of The University of North Carolina. In some instances, those institutions were initiated by

legislative action; in others, existing institutions that previously had been private or quasi-public in character were, at their own request, taken over as state institutions. Some of them were established as collegiate institutions, authorized to give the types of degrees usually given by colleges at the time of their creation. Others of them, however, began their existence as high schools or normal schools (teacher training institutions) of less than college grade and, over time, became successively normal schools, junior colleges, and senior colleges authorized to give bachelor's degrees. Some of them were located with a view to statewide service; others were located with only a local service role in view. Five of the institutions were created to serve only black students and one to serve only Lumbee Indians. The eleven institutions established or acquired by the state from 1877 to 1963, identified by their current titles and the dates when they became state institutions, are

- Fayetteville State University, 1877
- North Carolina State University at Raleigh, 1887
- Pembroke State University, 1887
- The University of North Carolina at Greensboro, 1891
- North Carolina Agricultural and Technical State University, 1891
- Elizabeth City State University, 1891
- Western Carolina University, 1893
- Winston-Salem State University, 1897
- Appalachian State University, 1903
- East Carolina University, 1907
- North Carolina Central University, 1923

1931 to 1971

Until 1931 The University of North Carolina was a one-campus institution. As early as 1922, there had been public discussion of the idea of merging the state institutions at Raleigh, Greensboro, and Chapel Hill into one. In 1929 Governor O. Max Gardner, newly elected and eager to reorganize state government in order to adapt it to the governing needs of the twentieth century, engaged the Brookings Institution of Washington to make a survey of North Carolina state government and advise him and the General Assembly on needed structural and organizational changes.

The Brookings Institution's report of 1930 dealt at length with modifications in the administrative agencies of state government. Almost as an afterthought, the authors suggested that

consideration should be given to the possibility and advisability of consolidating the

management of these three institutions [The University of North Carolina at Chapel Hill, State College of Agriculture and Engineering at Raleigh, and the North Carolina College for Women at Greensboro] into one large University of North Carolina.

They recommended that the consolidation "study should be made by impartial experts. . . ."⁴

Governor Gardner, concerned about the growth of the institutions at Raleigh and Chapel Hill along parallel and, in part, competing lines at what was then thought to be a large and growing cost to the taxpayers (the Great Depression added urgency to that consideration), skipped the recommended study and persuaded the General Assembly of 1931 to mandate the suggested merger immediately, by statute, and then to study the ways to make it work. The legislature acceded, extending the legal umbrella of the university to cover three institutions.⁵ It "consolidated and merged" North Carolina State College of Agriculture and Engineering and the North Carolina College for Women into "The University of North Carolina" with The University of North Carolina at Chapel Hill. All rights, powers, and duties of the three existing boards of trustees were transferred to the reconstituted board of trustees, which the act declared to be "a body politic incorporate [sic], to be known and distinguished by the name of 'The University of North Carolina'" and which thenceforth governed all three institutions. The three separate institutional boards were abolished. The 100 members of the reconstituted University Board of Trustees continued to be elected by the

General Assembly, as their predecessors had been since 1804, save for a short, disastrous period during Reconstruction. Elective terms were eight years, and there was no limit on the number of terms one could serve.

A study commission called into being by the 1931 consolidation act—the after-the-fact study—recommended and the board of trustees effectuated several transfers of programs among institutions. The engineering school at Chapel Hill was transferred to Raleigh, for example, and the business school at Raleigh was closed. The Woman's College at Greensboro was made the liberal arts and sciences college for women, with little graduate work; its library school was closed. North Carolina State College was made the university's technological institution, with the only programs in engineering, architecture, agriculture, textiles, and related fields. The university at Chapel Hill concentrated on the liberal arts and sciences and related professional schools, such as law and social work. Once this sorting-out process had been accomplished, the structure of the three-campus university was set for nearly three decades.

In the early 1930s the concept prevailed that the three institutions would function in a thoroughly unified fashion with one president, one graduate school with a branch on each campus, one summer school with a branch on each campus, mobility of faculties and students among the three institutions, and all operating as nearly like a single institution as the geographically dispersed nature of the university campuses would permit. In practice, however, this ideal soon proved infeasible and the campuses came to function more independently than had been initially contemplated. The differentiation of educational programs prevailed, however, and so did the single board of trustees and president of the whole university. The chief administrative officer on each campus was initially designated a vice president. His title was changed first to dean of administration and then, in 1945, to chancellor, without significant change in role.

By the mid-1950s, public senior higher education in North Carolina had grown to include one three-campus university and nine other institutions that had the authority to give bachelor's degrees; five of the nine had authority to give master's degrees as well. In an effort to bring about better coordination of the numerous elements of the state's fast-growing higher educational enterprise, the General Assembly of 1955 established the North Carolina Board of Higher Education and gave it general planning and coordinating authority.⁶ That board was created at the instance of leaders of the university's board of trustees, who saw it as a means to curb the ambitions of other state institutions

Frank Porter Graham (left), Governor O. Max Gardner (center), and former UNC President Harry Woodburn Chase (lower right), at the installation of President Graham. 1931.



North Carolina Collection. The University of North Carolina Library at Chapel Hill



Clay Thomson

View of the campus of the North Carolina School of the Arts showing the Gray Building, the Commons, and the Workplace.

that were looking directly to the General Assembly for new programs and expansion funds in competition with the university. The sponsors' purpose was soon disappointed, however, for the board failed to perform consistently as the supportive friend of the university.

In 1957 the General Assembly revised the statutes with respect to the nine senior public institutions outside of The University of North Carolina, achieving uniformity with respect to the size, mode of selection, and authority of their boards of trustees (all of whose members were thereafter appointed by the governor with legislative confirmation).⁷ The 1957 act also redefined the missions of those nine institutions somewhat more broadly than they had been defined prior to that time, but retained a strong emphasis on their responsibility for the preparation of teachers and administrators for the public schools. All racial designations of institutions were repealed at that time.⁸

In 1961-62 public postsecondary education was closely examined by the Governor's Commission on Education Beyond the High School. The report of that commission and the Higher Education Act of 1963, enacted on its recommendation, established the legal and organizational framework within which public postsecondary education functioned for several years.⁹

The Board of Higher Education, with some modification of membership, was retained as the coordinating agency for the public senior institutions. The existing pattern of

program responsibility among the state's public colleges was confirmed, with graduate education at the doctoral level and primary responsibility for research and extension work being assigned to The University of North Carolina (then comprising three campuses) and less extensive roles being given to the other senior institutions. The former locally sponsored community junior colleges at Charlotte, Asheville, and Wilmington were elevated to senior college status and made state institutions. A procedure was established for the addition of campuses to The University of North Carolina.

From 1931 to 1963, both the Chapel Hill institution and the three-campus university had been legally titled "The University of North Carolina," a confusing duplication. At the request of the University Board of Trustees, the 1963 legislature sought a uniform scheme for determining the names of the campuses of the university: each was to become "The University of North Carolina at [place]."¹⁰ So it was that the legislature designated the institution at Chapel Hill as "The University of North Carolina at Chapel Hill." At the trustees' request, the institution at Raleigh (whose alumni strongly objected to its being titled "North Carolina State: The University of North Carolina at Raleigh") became "North Carolina State of the University of North Carolina at Raleigh," shortened in 1965 to "North Carolina State University at Raleigh," its current legal title.¹¹

By action of the University Board of Trustees in 1963, The University of North Carolina at Greensboro was opened to male students, and the general admission of women as freshmen at Chapel Hill was initiated. Liberal arts programs were authorized at North Carolina State University at Raleigh.

The 1963 General Assembly also created the North Carolina School of the Arts and transformed community colleges at Asheville, Charlotte, and Wilmington into four-year state institutions.¹² That brought the number of state-operated, degree-granting institutions of higher education to the present sixteen.

In 1965, on the request of the University Board of Trustees, the General Assembly added The University of North Carolina at Charlotte as the fourth campus of the university,¹³ an action that happily coincided with a commitment made by the winning candidate for governor in 1964. Four years later, in 1969, again acting on recommendation of the board of trustees, the General Assembly made The University of North Carolina at Asheville and The University of North Carolina at Wilmington the fifth and sixth campuses of the university.¹⁴ These actions were seen by university trustees as means of strengthening the political position of the university by

expanding higher educational opportunities in the eastern and western reaches of the state in response to local wishes.

In 1967 and 1969, the General Assembly at the requests of the institutions, designated nine of the ten public senior institutions of higher education outside The University of North Carolina (all of those in that category except for the School of the Arts) as "regional universities" and broadened the missions of all of them to include undergraduate, master's, and doctoral degree work, subject to the approval of the Board of Higher Education.¹⁵ (Fortunately, the General Assembly never intended to vote the funds to make this grand gesture a reality.)

In 1970 the voters of the state adopted a new state constitution, which took effect the following year. Whereas the Constitution of 1868 had merely acknowledged the existence of The University of North Carolina, the Constitution of 1971 commanded it, providing:

The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.¹⁶

While the existence of the university is guaranteed by that provision, the meaning of that guarantee is left largely to legislative definition. The General Assembly has the power to determine what existing institutions are to be constituent institutions of "The University of North Carolina," to establish and disestablish institutions of higher education within or outside of the university, and to determine what state resources will be allocated to the support of the university.

The 1971 General Assembly, at the request of the University Board of Trustees, separated North Carolina Memorial Hospital from The University of North Carolina at Chapel Hill, gave it its own policy-making board of directors, and so conferred on it status very like that of a constituent institution of the university.¹⁷

The increasingly frequent legislative initiatives in higher educational policy making during the late 1960s

North Carolina Collection, The Univ. of North Carolina Library at Chapel Hill



occasioned criticism within and outside the General Assembly as to the inappropriateness of the legislative forum for the resolution of educational issues. Coupled with that concern was a growing conviction in North Carolina, as elsewhere in the nation, that more effective means of planning and coordinating the activities of the public institutions of higher education were needed to curb unnecessary duplication of programs and empire building, even if that required the transfer of governing authority over those institutions from their separate boards of trustees to a single board with systemwide authority. The successful precedent of the multicampus University of North Carolina was often cited as worthy of extension to all sixteen of the state's institutions.

In 1969, at the instance of the state Board of Higher Education, that board was enlarged by the General Assembly to include the governor and six legislative committee chairmen, *ex officio*.¹⁵ That gave newly elected Governor Robert W. Scott a special vantage point from which to observe the whole of public higher education in North Carolina, for he also served—by an 1805 statute¹⁹—as *ex officio* president of the Board of Trustees of The University of North Carolina. In his new role, the conviction grew upon him that public higher education was in need of fundamental reorganization in the interest of more effective planning and program coordination, and that it was his responsibility to bring about that result. He made its achievement a major objective of his administration.

A special committee created by Governor Scott late in 1970 gave several months of study to alternative modes of reorganizing—or "restructuring," as it came to be called—public senior higher education, and in the spring of 1971 it filed a report and recommendations

A light moment at the 1970 commencement ceremonies. Seated at front, from the left, are Chancellor J. C. Sitterson (behind podium), UNC President William C. Friday, Governor Robert W. Scott, and senior class president Charles M. Ingram.

with the governor, who transmitted them to the General Assembly. Unable to reach agreement on the matter in that regular session, the General Assembly met in an adjourned session in October of 1971 to readdress the subject.

The Board of Trustees of The University of North Carolina, its president, and nearly all of the administrative and faculty leaders in the university and of several of the other state universities opposed the restructuring plans that the governor put forward in 1971.

The initial plan considered by the legislature in the spring of 1971, called the "regents' plan," promised to destroy the only effective multicampus higher educational structure in the state, the six-campus University of North Carolina and its board of trustees and president, and to put in its place a strengthened version of the Board of Higher Education, which had proved largely ineffective. Moreover, the movement for restructuring was seen by its critics to be energized more by the political will of the governor than by the inherent educational merit of his plan.

The revised restructuring plan offered in the October 1971 adjourned session was hardly more welcome to the University Board of Trustees and its president than the earlier plan had been, although it was clearly modeled on the university. The governor prevailed, however, and the restructuring act was adopted. But it did not come without an intense legislative struggle, out of which the six-campus university gained an important measure of strength in the way the initial governing board of the restructured university was constituted and its members' terms were fixed.

1971 On

The resulting Higher Education Reorganization Act of 1971¹⁷ "redefined" The University of North Carolina to comprise sixteen degree-granting institutions, including the six that were then part of The University of North Carolina and the ten other institutions that up to that time had been distinct legal entities, each with its own board of trustees and president. North Carolina Memorial Hospital also was part of the new complex. To the board of governors of the university, the General Assembly granted virtually all powers of government over the sixteen constituent institutions. The former Board of Higher Education was abolished and its powers were absorbed by the board of governors. Separate institutional boards of trustees were retained (or established for the six institutions of the six-campus university), one for each of the sixteen institutions, but they were to hold virtually no powers independently, but only such pow-

ers as might be delegated by the board of governors.

In drafting and enacting the Higher Education Reorganization Act of 1971, the General Assembly was careful to "redefine"—not to abolish and then recreate—The University of North Carolina, and to "redesignate" the former Board of Trustees of The University of North Carolina as the "Board of Governors of The University of North Carolina." Thus the board of governors today is in law the same body that was known as the University "Board of Trustees" prior to July 1, 1972 (the effective date of the Higher Education Reorganization Act), notwithstanding the change in name, size, membership, and jurisdiction of that body. The board of governors is, in a different legal sense, the legal successor to the ten boards of trustees of the ten institutions that were merged into The University of North Carolina by the act of 1971.

The General Assembly of 1985 on its own initiative made the North Carolina School of Science and Mathematics "an affiliated school of The University of North Carolina" with its own board of trustees.²¹

Sixteen of the initial (1972) members of the board of governors were chosen by and from the old board of trustees of the six-campus University of North Carolina, sixteen were chosen by and from the boards of trustees of the nine regional universities and the School of the Arts, and two temporary, nonvoting members were chosen by and from the Board of Higher Education (which was abolished). Their terms ranged from one year to seven years in length. The terms of the initial thirty-two voting members were arranged so that eight would expire each two years, beginning in 1973, whereupon their successors would be elected by the General Assembly for eight-year terms. After 1972 the governor ceased to be *ex officio* chairman of the board of governors.

Recognizing the need for preparatory work in advance of the activation of the sixteen-campus university and its board of governors on July 1, 1972, the General Assembly provided for a Planning Committee to serve during the period from January 1 until June 30, 1972. Its membership was the same as that of the board of governors that was to take office on July 1; thus continuity of knowledge and responsibility was insured.

The Board of Governors of The University of North Carolina today consists of thirty-two voting members, serving overlapping terms. Initially, elective terms were eight years, but in 1987 terms were reduced to four years. The President of The University of North Carolina Association of Student Governments or his or her designee serves as a nonvoting member of the board.

As the term of each group of sixteen members terminates, the vacancies so created (together with those aris-

ing from death, resignation, or other cause), must be filled by election, half by the Senate and half by the House of Representatives of the General Assembly. The statutes provide detailed guidance for the election of members of the board. Each group of sixteen must include at least two women, at least two members of minority races, and at least two members of the political party to which the largest minority of the members of the General Assembly belongs. The duty of electing the special-category members is divided between the two houses and rotates each two years in a manner prescribed by statute. No officer or employee of the state and no spouse of such officer or employee may serve as a member of the board of governors. No one may serve simultaneously on the board of trustees of a constituent institution and on the board of governors. No member may serve more than three successive four-year terms. These election procedures now have been followed since 1973, and since 1979, all members have served by legislative election.

The chairman is elected biennially by the board from its membership, and no person may serve as chairman for more than four years in succession.

The board of governors must "govern the 16 constituent institutions" and "be responsible for the general determination, control, supervision, management and governance of all affairs of the constituent institutions . . .," and it may make policies and regulations for that purpose. The board must plan and develop a coordinated system of higher education for the state and prepare and keep current a long-range plan for that system.

The board of governors determines the functions, the educational activities, and the academic programs of the respective institutions and the degrees that each may award. Enrollment levels at each institution are set by the board as a part of its budget-making process. Subject to overriding legislative action, the board sets tuition and fees to be charged by each institution. If a new public degree-granting institution is to be established, it must have approval of the board of governors. The president of the university and, on his recommendation, the members of his professional staff and the chancellors of the constituent institutions are elected by the board of governors. On recommendation of the president and the appropriate chancellor, the board elects vice chancellors, senior academic and administrative officers, and members of the faculty receiving tenure to retirement, and fixes most administrators' salaries. The board also is responsible for assessing the private institutions and giving advice to the General Assembly thereon, and generally for advising the governor and the General Assembly on all higher education matters.

The University of North Carolina at Charlotte



The budgetary role of the board is its most prominent, because among the objectives the General Assembly sought in 1971 was an informed body outside the legislature that could assess all of the financial needs of institutions of higher education and advise the General Assembly in a prioritized way on how to budget state funds for higher education. Prior to that time, legislators had had a dozen supplicants pulling at their coattails, and they needed a better-informed and more rational way of deciding how to dispense the state's dollars for higher education. For that reason, the board was given full power to determine what funds would be requested on behalf of the university as a whole and in what priority those funds given to the university would be dispensed to the institutions. The board also owns and controls the property of the university, which, in practice, is largely managed at the campus level.

The board may delegate to the local boards of trustees and chancellors such portions of its authority as it finds proper.

The president is the "chief executive officer of the University," says the statute. The Code—the compilation of rules adopted by the board of governors—specifies the president's powers: He or she has complete authority to manage the affairs and execute the policies of The University of North Carolina and its constituent institutions, subject to the direction and control of the board of governors and the provisions of the Code; is the leader of The University of North Carolina and its constituent institutions and coordinates the activities of all constituent institutions in accordance with the principle of allocated functions prescribed by the board; promotes the general

A view of Colvard Building on the campus of The University of North Carolina at Charlotte from across Hechenbleikner Lake, named in honor of Professor Emeritus Herbert Hechenbleikner, who began the botanical gardens at UNCC.

welfare and development of the university in its several parts and as a whole; and chooses, subject to the board's approval in some cases, the members of the staff who help him or her carry out administrative responsibilities.

The statute of 1971 established virtually identical governing structures for all of the sixteen constituent institutions and their boards of trustees. For the first time since 1931, every one of the sixteen campuses had a body called "board of trustees" serving its specific interests. Each board of trustees now consists of eight members chosen by the board of governors for four-year staggered terms, four members chosen by the governor of North Carolina for four-year staggered terms, and the student body president, who serves *ex officio* with vote. A member is limited to two consecutive terms. The board chooses its own chairman annually from its membership.

The chancellor of each institution is elected by the board of governors on nomination of the president, who must choose from a slate of two or more persons nominated by the appropriate board of trustees. When chosen, the chancellor is the president's agent for the management and direction of his or her institution, and he or she also is the agent of the board of trustees for the administrative matters within its scope. The chancellor serves at the pleasure of the board of governors, not at the pleasure of the board of trustees or of the president. Only the board of governors, acting with or without the president's recommendation, can remove a chancellor from office.

The statutes directly assign few duties to the boards of trustees. Most of their duties are derived by delegation from the board of governors. One of the first acts of the board of governors when it was organized in July of 1972 was to delegate to the respective institutional boards of trustees extensive authority to manage those sixteen institutions. Among those powers delegated were these: final selection of institutional personnel (except for high-level administrative officers and tenured faculty members); property control except for leases and purchases over a substantial minimum figure; campus security; intercollegiate athletics; traffic and parking; student admission standards; degree conferral standards; honorary degrees; the management of endowments and trust funds; student affairs and services; student aid; and the management of auxiliary enterprises and utilities. Taken altogether, the body of duties delegated to the board of trustees is quite substantial and enables necessary differentiation among the institutions.

The chancellor derives his or her authority in part from statute, in part from delegations by the board of governors, and in part from sub-delegation of authority that has been delegated by the board of governors to the board of trustees. The administrative responsibility line,

however, runs from the chancellor to the president. The chancellor is in the potentially uncomfortable position of being answerable both to the president and to his or her own board of trustees. The statutes do clearly make the chancellor the administrative and the executive head of the institution over which he or she presides, and he or she has complete executive authority therein, subject to the direction of the president.

The Status Today

What is the net effect of all this current organizational detail?

1. The board of governors and its agent, the president, have by statute almost complete management authority over the university, subject to the ultimate power of the legislature to rescind any of the extensive powers it has delegated to the board and president or to act directly on matters within the board's scope.
2. The board of governors in 1972 delegated to the chancellors and boards of trustees very extensive authority over internal affairs of their institutions—as to organization, personnel, students, program, finances, and property.
3. The board of governors retained those powers critical to its planning, coordinating, and budgeting roles: that is, the powers to
 - a. determine the degree programs and other major activities of the institutions, consistent with its overall plan for higher education
 - b. elect the major administrators of its own staff and the chancellors, and upon their nomination, their principal administrative associates and the permanently tenured faculty members of the institutions
 - c. establish and advocate budget request priorities to be presented to the governor and General Assembly, based on the requests of the institutions and evaluated in the light of the educational needs of the whole state as understood by the board
 - d. establish and control enrollments of the institutions, as part of its program and budgetary management functions
 - e. press for improvement in the quality, comprehensiveness, and accessibility of education and other university-provided services to the people of the state.

As a result, The University of North Carolina at Chapel Hill, North Carolina State University at Raleigh, and The

University of North Carolina at Greensboro have more freedom of action and initiative than they had for the forty years prior to 1972, when they had no boards of trustees of their own, their chancellors had more limited functions, and their operations were subject to much closer oversight (and sometimes participation) by the president than is true today.

The present structure of the multicampus university has proved more durable and successful than many in 1971 thought that it would be.

The chief reasons are these:

1. One-half of the initial board of governors was drawn from the old six-campus University Board of Trustees, and the leaders of the old board became the leaders of the new board of governors. They understood the difference between single-campus and multicampus institutions and boards, and what powers to delegate and what to retain. Some of those early leaders served long and gave stability and continuity to the board of governors for nearly two decades.
2. William Friday was elected as president of the restructured university and served during the critical years while the new structure was taking form and stabilizing. He understood from sixteen years of prior experience the role of a multicampus university president and the limitations on that role, and he enjoyed the confidence of those whom he led and of state officials. He and the board of governors determined to make a success out of a structure whose creation he and most of them had strongly opposed.
3. The mid-1970s were relatively flush times financially for the state, so no institution demonstrably lost money from restructuring, and several gained from it. Unlike the 1930s, no program of consequence was taken away from any institution as an early result of the 1971 legislation.

What does the future promise with respect to further changes in the structure and organization of The University of North Carolina?

From time to time various proposals are floated for large or small changes, some of them calling for a form of disaggregation of the sixteen-campus university. An evaluation of them is beyond the scope of this article. It is noteworthy, however, that the chief change in the structure to date has resulted in the reduction of board of governors members' terms from eight to four years, thus making members more immediately subject to the General Assembly and reducing continuity in board leadership.

From six decades ago come the following words

from the 1933 annual report of President Frank Porter Graham, made after the consolidation of 1931-32 had been in effect for one year under his leadership. Then, even more than now, there were advocates of reform or secession. With a few elisions of references to the three institutions then composing the university, his statement speaks to our day as it did to his:

The coordination and consolidation of our . . . state institutions of higher learning; . . . and, in general, the cooperation of the . . . university with all the schools, colleges, institutions, departments, agencies, and enterprise of the people, will make possible the development in North Carolina of one of the great intellectual and spiritual centers of the world.

Cooperation, not abdication, is the advancing position of the . . . University of North Carolina. To this we give our hands and summon the people to her side for a great American adventure in creative cooperation. We take our stand with youth as . . . they look beyond the confusions of the hour and dream the commonwealth that is to come.

Notes

1. The commission, composed of six senators and six representatives, was created by 1993 N.C. Sess. Laws ch. 321, sec. 101.5. Its final report to the General Assembly is due by February 15, 1995. The Legislative Research Commission in 1993 also authorized the commission to study the manner in which members of the board of governors of the university are chosen.
2. North Carolina Constitution sec. 41 (1776).
3. 1789 N.C. Laws ch. 20.
4. *Report on a Survey of the Organization and Administration of the State Government of North Carolina* (Washington, D.C.: The Brookings Institution, 1930), 171-73.
5. 1931 N. C. Pub. L. ch. 202.
6. 1955 N. C. Sess. Laws ch. 1186.
7. 1957 N. C. Sess. Laws ch. 1142.
8. No statute restricted admission to the university at Chapel Hill to white applicants; that was done by trustee policy.
9. 1963 N.C. Sess. Laws ch. 448. See *The Report of the Governor's Commission on Education Beyond the High School* (1962), 37-64.
10. 1965 N. C. Sess. Laws ch. 213.
11. Campus usage studiously omits the "at Raleigh" suffix.
12. 1963 N. C. Sess. Laws ch. 448, sec. 22; ch. 1116.
13. 1965 N. C. Sess. Laws ch. 31.
14. 1969 N. C. Sess. Laws ch. 297.
15. 1967 N. C. Sess. Laws ch. 1038; 1969 N. C. Sess. Laws chs. 388, 608, and 801.
16. North Carolina Constitution art. IX, sec. 8 (1971).
17. 1971 N.C. Sess. Laws ch. 762.
18. 1969 N. C. Sess. Laws ch. 400.
19. 1805 N. C. Laws ch. 675 [Henry Potter, *Laws of the State of North Carolina*, Vol. 2 (1821)].
20. 1971 N.C. Sess. Laws ch. 1244, codified as N.C. Gen. Stat. §§ 116-1 through -253.
21. 1985 N.C. Sess. Laws ch. 757 sec. 206(b).

Robert P. Joyce



Reprinted by permission from Cassius M. Weyrich, John C. Stacks, and Elsie W. Vining (eds.), *North Carolina and the Negro (1944)*, N.C. Mayors' Cooperative Committee, 1944, 235.

The author is an Institute of Government faculty member who specializes in school law.

This article looks at the legal history of desegregation through phases one and two and raises questions about the legal fate of phase three.

By 1938 North Carolina had done more than other segregation states to provide higher education for black students. It operated the North Carolina College for Negroes at Durham and the Negro Agricultural and Technical College of North Carolina (A & T) at Greensboro, along with state teachers' colleges for black students at Elizabeth City, Fayetteville, and Winston-Salem. There were no programs for black students in law, however, nor in medicine, pharmacy, and other graduate and technical programs.

This deficiency was the most vulnerable aspect of the separate but equal system. In 1933 a black applicant, Thomas Hocutt, was denied admission to the graduate pharmacy program at Chapel Hill. He sued, claiming that his rejection was based on his race. The National Association for the Advancement of Colored People (NAACP) sent lawyers from its newly formed Legal Defense Fund (LDF) to assist Hocutt, but he lost his case when the president of the North Carolina College for Negroes refused to supply a copy of his undergraduate transcript, apparently believing that black students would benefit most by attending black colleges.⁵ Hocutt's case marked the first appearance by the LDF in North Carolina desegregation cases.

A similar deficiency in Missouri provided the opportunity for the first unraveling of separate but equal. Missouri provided no law school for black students, but state legislation called for paying the expenses of black students who attended law schools in adjacent states. In 1938 the United States Supreme Court held that this arrangement did not satisfy the separate but equal requirement.⁶ "The admissibility of laws separating the races in the enjoyment of privileges afforded by the State," the court said, "rests wholly upon the quality of the privileges which the laws give to the separated groups." Here the state provided in-state legal training for whites and not for blacks. That, the court said, was a denial of equal protection because it was separate but not equal.

Recognizing the implications of the Missouri decision, four months later the North Carolina General Assembly passed "An Act to Provide Graduate and Professional Courses for the Negroes of North Carolina," authorizing the North Carolina College for Negroes to establish liberal arts graduate programs and departments of law, pharmacy, and library science; and for the Negro Agricultural and Technical College to establish graduate and professional programs "in agricultural and technical lines."⁷ One year later, in 1940, the first students entered the new law school at North Carolina College.¹⁰

Focusing on "Equal" in Separate But Equal

Texas took the same lesson from the Missouri case that North Carolina did, but only after a black applicant, Heman Sweatt, was denied admission to the University of Texas Law School in 1946. When Sweatt brought his lawsuit, a Texas state court ruled that he had been denied the equal protection of the laws, because Texas did not provide a law school for black students. Rather than order Sweatt admitted to the white law school, the court gave the state six months to open a black one. Texas

quickly geared up a law school for black students and offered Sweatt admission. When he refused, the state courts ruled against him on the grounds that the new law school and the old university law school satisfied the equality requirement of separate but equal.

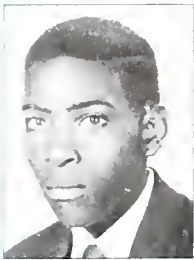
In June of 1950 the United States Supreme Court ruled in Sweatt's favor: the two law schools did not offer substantial equality of opportunity.¹¹ They were very different in resources such as libraries, but, more importantly, "[t]he law school to which Texas is willing to admit [Sweatt] excludes from its student body members of the racial groups which number 85% of the population of the State and include most of the lawyers, witnesses, jurors, judges and other officials with whom [Sweatt] will inevitably be dealing when he becomes a member of the Texas Bar."¹² The Supreme Court was sending a strong message that no segregated law school could overcome such an inequality.

Now the pace of the demise of separate but equal accelerated.

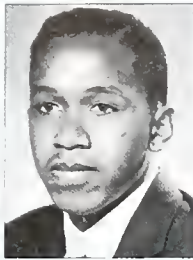
About the same time that the Supreme Court decided Sweatt's case, four applicants to The University of North Carolina law school were rejected because they were black, and they sued—with the help of the NAACP's Legal Defense Fund. The university defended the suit by asserting that the law school at North Carolina College afforded a legal education substantially equal to UNC's. "Moreover," as the court put it, "it is shown that colored lawyers are rarely if ever employed by white persons in North Carolina, and hence it is argued that the success of the colored graduates in active practice would be promoted far more by association and acquaintance formed with the 1300 students of the North Carolina College than by mingling with the white students at the University."¹³ The federal district judge ruled in the state's favor; but the appeals court, taking the clear lesson of the Texas case, on March 23, 1951, held for the black applicants.¹⁴ The North Carolina College law school did not provide educational opportunities substantially equal to those of the UNC law school, and therefore these black applicants could not be denied admission because of their race.

Two weeks after the appeals court ruling, UNC's board of trustees attempted to distinguish between instances in which the state offered no programs at all for black students—most notably the medical school—and those in which it did—like the law school. For programs without black counterparts, the board passed a resolution saying that applications "shall be processed without regard to color or race."¹⁵ (Trustee John Kerr, Jr., of Warrenton, arguing against this action, said, "Within five years there won't be a Negro left at A. & T. College.

Courtesy the News & Observer (Raleigh) and the N.C. Division of Archives and History.



John L. Brandon



Ralph Frasier



Leroy Frasier

Brandon and the two Frasier brothers, who graduated from Durham's Hillside H. S. in 1955, were denied admission to the university at Chapel Hill because of their race. A federal court directed the university to process their applications.

They'll be over at Chapel Hill and sitting here [at North Carolina State University, where the board was meeting] on Chancellor Harrelson. I want you to think of that.")¹⁶ On April 30, 1951, the Medical School Admission Committee approved by a vote of six to one the application of Edward O. Diggs, a premed student at A & T, for the fall term. An editorial in the UNC student newspaper, *The Daily Tar Heel*, said, "We welcome Edward Diggs as the pioneer that he is."¹⁷

But for programs that did have black counterparts, the board of trustees voted to appeal to the Supreme Court the ruling of the appeals court regarding the law school. The board wanted to protect segregation where separate but equal could be argued. That desire withered on June 4, 1951, however, when the Supreme Court voted not to hear the appeal.¹⁵ The ruling stood, and the university was obligated to admit Harvey Beech (of Durham), J. Kenneth Lee (Greensboro), James Lassiter (Rocky Mount), and Floyd B. McKissick (Asheville) to the law school. The university decided to admit all four to the summer session beginning June 8 rather than wait for a formal court order. The four became the first black students to enroll in a formerly all-white institution of public higher education in North Carolina.

Adjusting to Black Students on Campus

The admission of black students in the unraveling phase of separate but equal was only the first step, as the University of Oklahoma had learned the summer before. G. W. McLaurin had been denied admission to a graduate program there because he was black, in accordance with Oklahoma law. He had sued in 1948 and, like Sweatt in Texas and McKissick and the others in North Carolina, had won a ruling in his favor. In response, the Oklahoma legislature amended its statutes to provide that black students could be admitted in cases where

Courtesy WUNC Television



Julius L. Chambers, chancellor of N.C. Central University, was among the early black students at UNC's law school; shown here in a televised 1993 interview with William C. Friday, former UNC president. Another student, Floyd B. McKissick—one of the first four black students to enroll at UNC—also achieved prominence: as a N.C. district court judge and a civil rights leader.

white institutions offered programs not available in black institutions, but the programs in such cases "shall be given at such colleges or institutions of higher education upon a segregated basis."¹⁹ McLaurin was admitted but was required to sit apart at a designated desk in the anteroom adjoining the classroom, to use a designated desk on the mezzanine floor of the library but not the regular reading room, and to sit at a designated table and eat at a different time from other students using the university cafeteria. McLaurin brought these conditions to the attention of the court that had ordered his admission, but it ruled that his rights were not being violated. McLaurin appealed to the Supreme Court—with the help of the LDF. By the time the case reached the high court in 1950, some of the conditions imposed on him had softened: he was permitted into the regular classrooms but only in a "reserved for colored" row; he was permitted to eat at the same time as other students but still at a segregated table. The Supreme Court ruled in McLaurin's favor. "[T]he conditions under which [he] is required to receive his education deprive him of his personal and present right to the equal protection of the laws."²⁰

The Oklahoma case taught that separate but equal would not work within the walls of one institution. The University of North Carolina at Chapel Hill learned the lesson slowly. First, the administration did not issue to its new black students passbooks for seats in the student section at football games but instead issued free tickets for seats in the segregated all-black seating section. Chapel Hill Chancellor Robert B. House drew a distinction between (1) the regular educational services of the university, to which the black students were fully entitled, and (2) football games, which were, he said, "statewide assemblage: [and not] exclusively university functions."²¹ The UNC student body president and several student organizations protested and the chancellor relented. He issued regular passbooks to the black students but told them in

a letter that it would be "wise to observe, for the present, the custom of segregation at North Carolina intercollegiate athletic games."²² For a game or two they did; by midseason they did not.²³

Between the fall of 1951 and the beginning of the 1954–55 school year, a total of twenty black students were admitted to the graduate and professional schools at Chapel Hill. Black students who requested university housing were lodged in segregated sections of the dormitories, and mixed social occasions were prohibited by regulation of the board of trustees.²⁴

The Death of Separate But Equal

Then came the nation's most famous desegregation case, *Brown v. Board of Education of Topeka, Kansas*,²⁵ decided by the Supreme Court in May 1954, holding that "in the field of public education the doctrine of 'separate but equal' has no place."²⁶ The separation of races by law in elementary and secondary schools provided inherently unequal treatment to black students, the court held, in violation of the U.S. Constitution.

One year later, in April 1955, three black graduates of Hillside High School in Durham applied for admission as undergraduate students to UNC at Chapel Hill. Their applications were denied because of their race.²⁷ There was no constitutional or statutory provision expressly requiring segregation at the university,²⁸ but on May 23 UNC's board of trustees passed this resolution: "The State of North Carolina having spent millions of dollars in providing adequate and equal educational facilities in the undergraduate departments of its institutions of higher learning for all races, it is hereby declared to be the policy of the Board of Trustees of the Consolidated University of North Carolina that applications of Negroes to the undergraduate schools of the three branches of the Consolidated University be not accepted."²⁹

The three black applicants sued, and on September 9, 1955, a federal trial court held that "the reasoning on which the [*Brown*] decision is based is as applicable to schools for higher education as to schools on the lower level."³⁰ The court held that "Negroes as a class [including the three applicants—John L. Brandon, Leroy Benjamin Frasier, and Ralph Frasier] may not be excluded because of their race or color."³¹

The university enrolled the three but appealed the decision. On March 5, 1956, the Supreme Court decided to let the district court's decision stand,³² and separate but equal was dead in North Carolina public higher education.³³ Its final vestige lingered until the beginning of the 1964–65 school year. That September the new chancellor, Paul Sharp, issued this instruction: "The Univer-

sity will hereafter assign students to their rooms without regard to race or color." Until that time blacks and whites had been assigned as roommates only if they specifically requested the mix and their parents approved.

Phase Two: An Affirmative Duty to Desegregate

A Decade of Byzantine Litigation

In retrospect, phase one, the process by which legal segregation ended, exhibits an orderly progression: first, the courts endorsed separate but equal, then they focused on the inequalities in systems supposedly operating as separate but equal, and finally they held that separate—even if equal—was unconstitutional. Phase two, the process by which The University of North Carolina undertook affirmative actions to integrate its system, cannot be called orderly even in retrospect.

Before its end phase two would see an unusual three-way legal battle. The Legal Defense Fund would fight the federal government in federal court in Washington, D.C. for more than a decade, repeatedly winning court rulings holding that the Department of Health, Education, and Welfare (HEW, from which the Department of Education later was formed) should be more assertive in requiring desegregation in North Carolina's higher education system. And UNC's board of governors would sue HEW in federal court in North Carolina to try to block its most assertive actions.

Before the end of phase two, the lawsuits and their exhausting negotiations would focus on two goals that at times appear mutually exclusive: (1) eliminating racial duality in the state's higher education system—reflected primarily in the heavy preponderance of black students in the five historically black institutions—and (2) strengthening and preserving the black identity of the historically black institutions.

It would end in a consent decree requested by the state and the federal government and approved by the court but strongly resisted by the LDF. The terms of that consent decree live on today in the university's voluntary "Program for Further Increases in Minority Presence Enrollment," which marks phase three of higher education desegregation in North Carolina.

"Desegregation" Takes on New Meaning

In 1964 Congress passed Title VI of the Civil Rights Act, which provides: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, or be denied the benefits

of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

In February 1970 Leon Panetta, the director of HEW's Office for Civil Rights (OCR), which was responsible for Title VI enforcement, wrote to North Carolina Governor Robert W. Scott, pointing out that 98 percent of the students at formerly all-white institutions were white and nearly all the students at formerly all-black institutions were black. "To fulfill the purposes and intent of the Civil Rights Act of 1964," he wrote, "it is not sufficient that an institution maintain a nondiscriminatory admissions policy if the student population continues to reflect the formerly *de jure* racial identification of that institution."⁵⁴ Panetta directed the governor to submit a desegregation plan within months.

Before many months had passed, however, the triangulated litigation began. In the "Adams litigation" (so called for one of the plaintiffs), black residents of several southern states, represented by the Legal Defense Fund, sued HEW. They alleged that HEW had "refused to undertake action to secure compliance with Title VI by segregated public institutions of higher education." The federal court agreed that HEW's enforcement was insufficiently assertive—specifically finding that North Carolina had "totally ignored HEW's requests" for a desegregation plan.⁵⁵ A later court described HEW's conduct during this period as showing "lassitude, if not recalcitrance."⁵⁶ In June 1973 the federal appeals court affirmed the district court's ruling—HEW was not doing enough—and set a new timetable for North Carolina to submit a desegregation plan.

Meanwhile, the board of governors of the newly organized sixteen-institution University of North Carolina (whose creation owed nothing to the controversy over racial issues) had been developing a response to HEW. At about the time that the appeals court made its ruling, the board sent to HEW a plan that included a call for intensified recruitment efforts to attract minority students to all campuses. In November 1973 HEW rejected this plan and called for a more detailed one. Under the terms of the appeals court decision, the deadline for HEW approval of a plan was midsummer 1974. If no acceptable plan was in place by then, HEW was to begin administrative proceedings to cut off all federal funds to all the state's degree-granting public institutions.

Two aspects of the appeals court decision particularly set the stage for the coming decade. First, the court explicitly said that it was concerned with racial imbalance, not intentional discrimination: "It is important to note that we are not here discussing discriminatory admissions policies of individual institutions. . . . This controversy concerns the more complex problem of system-wide ra-

cial imbalance."⁵⁷ "Desegregation" in the 1970s was to mean something quite different from what it had meant in the 1950s. Back then it had meant the elimination of racial groupings required by law or public policy. In the 1970s, it appeared, it would mean the elimination of racial groupings *however* caused—whether by law or by voluntary student choice—if the result is "imbalance." A second aspect of the appeals court decision touched on a difficulty that continues to complicate desegregation efforts in higher education today: the desire to preserve the racial identity of the formerly all-black colleges.

Desegregation's Effect on Black Colleges

In this respect, desegregation of higher education was very different from desegregation of public schools. Closing historically black institutions, often the familiar pattern in public school desegregation, was never considered seriously in North Carolina (although merger of black and white institutions was ordered by the courts in Tennessee); and, in contrast to the public schools, the voluntary nature of college attendance, and college choice, made irrelevant certain remedies that worked in the public schools.

Recognizing the difficulty in fashioning desegregation plans, the opinion said: "A predicate for minority access to quality post-graduate programs is a viable, co-ordinated state-wide higher education policy that takes into account the special problems of minority students and of Black colleges. . . . [T]hese Black institutions currently fulfill a crucial need and will continue to play an important role in Black higher education."⁵⁸

In February 1974 the board of governors approved a new plan, "The North Carolina State Plan for the Further Elimination of Racial Duality in the Public Postsecondary Education Systems." Board member Julius Chambers—who had been one of the early black law students at the Chapel Hill campus and today is chancellor of North Carolina Central University—explained his concern that under the plan the predominantly white institutions would drain the best faculty and students from the predominantly black institutions, and he voted against it.⁵⁹

Responding to HEW suggestions, the board of governors in May 1974 adopted a revised version of the February plan and HEW accepted it. It provided strategies for inducing a larger percentage of black North Carolinians to take advantage of higher education opportunities, and for white and black students to attend institutions where they would be in the minority; but the key element was enrollment projections through 1978.

In August 1975 the *Adams* plaintiffs filed a motion in their lawsuit asking the court to overturn HEW's approval of the revised plan. They said that it was inadequate and provided only minimal progress toward desegregation. The National Association for Equal Opportunity in Higher Education, an organization of the presidents of 110 predominantly black colleges, filed a friend-of-the-court brief in which it expressed its fears of "assimilation" and its desire for the preservation of the right of states to maintain "special purpose" schools.

About this time Joseph Califano, Jr., became secretary of HEW. He later recalled the concern over desegregation's effects on black institutions. "I don't think any court order created as much agony within the civil rights movement as the mandate to dismantle and desegregate the dual systems of higher education in some Southern and border states. The blacks were as much divided among themselves as were whites and blacks, and obeying the order put me in the middle of issues as complex and subtle as any I faced in this arena."⁴⁰

In April 1977 the federal district court ruled in favor of the *Adams* plaintiffs, for the second time finding that HEW had failed to properly pursue UNC desegregation.⁴¹ The court held specifically that HEW had failed to demand from North Carolina an adequate desegregation plan. The court relied on testimony by a top HEW official that the North Carolina plan lacked clarity and specificity and that HEW needed to "get about the business of changing" it.⁴² It held that HEW had violated Title VI "by continuing to grant federal aid to public higher education systems which have not achieved desegregation."⁴³ The nominal defendant was HEW, but the interests of the board of governors in fighting HEW were far greater than were those of HEW in fighting the plaintiffs, with whom HEW's sympathies largely lay.

Once again the association of black college presidents "voiced its concern about the possible adverse effects of state plans on the future of Black colleges and their primary mission of educating Black Americans," and the court once again admonished that HEW must "take into account the unique importance of Black colleges."⁴⁴

For the 1977 school year white students made up 6.9 percent of the total head count at UNC's five predominantly black institutions, and black students made up 6.1 percent at the predominantly white ones.⁴⁵ In July of that year, HEW—complying with orders from the appeals court—promulgated guidelines for higher education desegregation plans, stressing increases in black enrollment at white institutions but not the other way around. To comply with the court's admonitions regarding black institutions, Califano recalled, HEW "decided that white

students should not take spaces at black colleges before blacks were able to enter white ones."⁴⁶

UNC President William C. Friday put it to the board of governors this way: "[W]e are [told that we are] in violation of Title 6 because we maintain a racially dual or segregated system, and we are simultaneously told to maintain racial duality."⁴⁷

Disagreement over Fundamental Principles

As a means of speeding desegregation, HEW's guidelines focused on program duplication. Where a black institution and a white one were geographically close—like A & T and UNC-Greensboro, both in Greensboro—they should not each offer the same courses except those that were part of the core curriculum that any college should have. If only one of the institutions offered a business administration degree program, for instance, then both black and white students who wished to study business in a particular geographic area would have to attend the same school. Program duplication, according to HEW, was "the most obvious vestige of past state-sanctioned segregation."⁴⁸

In May 1978 Friday and the board of governors assured HEW that they were "committed to the elimination of educationally unnecessary program duplication among traditionally black and traditionally white institutions."⁴⁹ But they were unwilling to agree to HEW's specifications of "core courses" or to relinquish their authority to determine what courses and programs were "educationally unnecessary." HEW was demanding "an educational experiment," Friday said, "that would seriously disrupt the educational program of The University of North Carolina, that could inflict long-lasting damage upon our institutions, and all on the unproven assumption that it *might* bring about major changes in the racial composition of the student populations."⁵⁰ Nonetheless, as a matter of compromise, the board agreed to study program duplication.

In December 1978 the board's study identified fifty-eight duplicative programs in geographically proximate black and white institutions. Its conclusion: "there is no educationally unnecessary program duplication."⁵¹

The board of governors and HEW had engaged one another over the fundamental principle of program duplication: HEW saw elimination of duplicated programs as a strong tool to increase racial mix on campuses; Friday and the board saw a threat to the vitality of the constituent institutions and to the authority of the board to make educational policy decisions for the university.

Throughout the course of the HEW-UNC conflict, negotiations over the terms of successive drafts of

desegregation plans were almost constant. In early 1979, after the two sides locked horns over program duplication, the intensity increased. Califano reports that President Jimmy Carter was pressuring him to reach an accord and even had offered to call Governor James B. Hunt, Jr. Officials of HEW met frequently with Hunt, with Friday, with other university officials, and with members of the board of governors. But the impasse over program duplication continued, HEW rejected UNC's final desegregation plan in 1979, and further litigation became inevitable.

The Third Side of the Lawsuit Triangle

On April 2, 1979, HEW gave notice that it would start administrative proceedings to cut off all federal funds to all institutions in The University of North Carolina. Three weeks later the university sued HEW in federal court in North Carolina, asking the court to block any HEW cut-off of funds and to issue a ruling declaring that UNC was in compliance with Title VI. The court would not go so far but did rule that HEW could cut off no funds until the administrative procedures had been completed.⁵²

The judge commented that both "those to whom the University of North Carolina means so much" and "the dedicated public servants who work at HEW" were "striv[ing] to eradicate our nation's regrettable legacy of racial segregation." He expressed the hope that "these grave historical and political questions can be resolved amicably by leaders of good faith and purpose."⁵³

After various delays, the administrative hearings got under way in 1980 and lasted for a year, accumulating 15,000 pages of testimony.

When HEW had first demanded a desegregation plan from UNC in 1970, Richard Nixon was president. During the most intense days of conflict, Jimmy Carter was president. While the hearings dragged on, President Reagan came into office and named Terrell Bell, a man experienced in higher education, as the secretary of the Department of Education, newly split off from HEW. Within a month of Bell's taking office, Bell and Friday were engaged in negotiations to end conflict between the federal government and the university.

On June 20, 1981, the hearings stopped abruptly when the board of governors voted to accept an agreement ending the conflict with the federal government. On July 13, 1981, the federal district court in North Carolina approved the agreement, which then took the formal status of a consent decree.

The *Adams* plaintiffs then made one last try in the federal district court in Washington. They petitioned that court to rule that the desegregation plan contained

in the consent decree was not improved substantially over the plans rejected by that court in 1977 and by HEW in 1979. They pointed to the opinion of the United States Commission on Civil Rights, which condemned the consent decree. The court in Washington refused to overturn a decision of its sister court in North Carolina, however, and in 1983 that refusal was affirmed by the appeals court for the District of Columbia.⁵⁴

For the first time in thirteen years, The University of North Carolina and the federal government were at peace over the racial composition of the student population of the sixteen institutions.

Phase Three: Increased Racial Mix, Continued Racial Duality

The Consent Decree

As approved by the court, the consent decree set a goal for racial integration in the university: By 1986-87 whites would account for 15 percent of the enrollment at predominantly black institutions, and blacks would account for 10.6 percent of the enrollment at formerly all-white institutions. To achieve this goal the university committed to undertake extensive informational activities and financial aid programs aimed at encouraging black students to take advantage of opportunities at predominantly white institutions, and vice versa, and to "portray clearly the policies and practices of the University that prohibit racial discrimination and encourage racial diversity."⁵⁵ The consent decree specifically provided that UNC's compliance was to be "measured solely by a standard of good faith efforts to achieve and implement the goals and commitments of this Decree."⁵⁶

The decree also contained commitments regarding support for the black institutions, such as funding levels and the addition of programs. But, as the dissenting judge said in the final District of Columbia appeals court decision, the decree "is *totally silent* on the subject of program duplication."⁵⁷ In fact, he said, "[t]his plan actually represents a step backward. In 1978 the UNC Board of Governors had committed itself to reduce program duplication."⁵⁸

The 15 percent and 10.6 percent goals were set for 1986-87, consistent with the effective dates of the consent decree. The obligations of the university for increasing diversity and for enhancing black institutions expired on December 31, 1986; the court retained jurisdiction to monitor Title VI compliance until December 31, 1988, at which time the consent decree expired.

For the 1986-87 school year, white students in fact made up 15.4 percent of the enrollment at predominantly black institutions while blacks made up only 8.3 percent of the enrollment at predominantly white ones.⁵⁹

The University's Desegregation Efforts Today

In 1993 UNC operates under the voluntary Program for Further Increases in Minority Presence Enrollment, adopted by its board of governors in November 1988, which "continues with some modifications commitments pertaining to student recruitment activities that we have been following since 1981"⁶⁰—that is, since the consent decree became effective. This program focuses on the informational activities and financial aid incentives embodied in the consent decree to attract white students to predominantly black campuses and vice versa.

In 1992 whites made up 18.5 percent of the total enrollment at predominantly black institutions and blacks made up 8.4 percent of the total enrollment at predominantly white ones. Thus UNC long ago met and exceeded the consent decree's goal for white enrollment in black institutions; it has never approached the 10.6 percent goal for black enrollment in white ones.

The clearest statistical expression of the system's racial duality is the percentage of white students attending predominantly white institutions and the percentage of black students attending predominantly black ones. In 1980, the year before the consent decree, two-thirds (66.4 percent) of black students attended historically black schools and 98.1 percent of whites attended historically white ones. By 1986, the end of the consent decree, the figures were down to 61.8 percent and 97.2 percent respectively; in 1992 they were 62.2 percent and 96.4 percent. Still today, nearly two-thirds of black public college students in North Carolina attend historically black institutions (which range from 67.3 percent black to 88.5 percent), and 96 out of every 100 white public college students attend predominantly white ones (which range from 88.3 percent white to 96.8 percent white).

The Supreme Court's Most Recent Desegregation Lesson

From 1938 through 1954, decisions of the United States Supreme Court interpreting the Fourteenth Amendment to the United States Constitution drove the phase one desegregation actions of university officials, leading to the admission of black undergraduates at Chapel Hill in 1955.

The Supreme Court did not play a role of consequence

in phase two. Neither the decisions of the federal court in Washington requiring more vigorous enforcement by HEW nor the decisions of the federal court in North Carolina, including the acceptance of the consent decree, relied heavily on Supreme Court precedent.

But now, in phase three, the Supreme Court has reentered the higher education desegregation picture, through a 1992 decision calling into question the constitutionality of Mississippi's racially dual higher education system.⁶¹ Mississippi, like North Carolina, had maintained a higher education system that was strictly segregated by race until the Supreme Court decisions of the 1950s forced integration. Mississippi, like North Carolina, was the subject of early 1970s efforts by HEW to compel affirmative steps to dismantle its dual system. But whereas the North Carolina contest ended in a consent decree in 1981, the Mississippi contest continued in the federal courts through decisions in the university's favor: by the district court in 1987 and the court of appeals in 1990.

The courts ruled in the university's favor despite statistics showing that by the mid-1980s, 99 percent of Mississippi's white public college students attended predominantly white institutions (which ranged from 80 to 91 percent white) and 71 percent of black students attended predominantly black institutions (which ranged from 92 to 99 percent black).⁶²

When the appeal reached the Supreme Court, this is how the court phrased the question: "[T]he primary issue in this case is whether the State has met its affirmative duty to dismantle its prior dual university system."⁶³

A state can meet this affirmative duty, the court said, only by eliminating "policies and practices traceable to its prior system that continue to have segregative effects [and that] are without sound educational justification and can be practicably eliminated." This is true "even though the State has abolished the legal requirement that whites and blacks be educated separately and has established racially neutral policies not animated by a discriminatory purpose."⁶⁴

To determine whether Mississippi was continuing such policies and practices traceable to the prior segregated system, the court looked at four characteristics of the Mississippi system, three of which have direct parallels to North Carolina's system.

First, it looked at the duplication of programs between geographically proximate white and black institutions. "It can hardly be denied that such duplication was part and parcel of the prior dual system of higher education—the whole notion of 'separate but equal' required duplicative programs in two sets of schools," the court said.⁶⁵ Of course, the same is true of North Carolina, and the

notion of eliminating duplicative programs was a central element in the contest between UNC and HEW.

Second, the court looked at Mississippi's system of classification of its institutions. A 1981 Mission Statement divided the system's institutions into three clusters: comprehensive, urban, and regional, with comprehensive having the greatest resources and program offerings. Of the nine institutions in the system, three were classified as comprehensive, and all three were formerly all white. In North Carolina the sixteen constituent institutions are divided into similar classifications. Both institutions in the highest rank—*research university*—are formerly all-white institutions. Two black institutions (A & T and N.C. Central) are among the next rank—*comprehensive university*—and the remainder are listed with general *baccalaureate* universities. In Mississippi's case, the court said, "[W]hen combined with the differential admission practices and unnecessary program duplication, it is likely that the mission designations interfere with student choice and tend to perpetuate the segregated system."⁶⁶

Third, it looked at Mississippi's decision to continue to operate eight public higher education institutions. "The existence of eight instead of some lesser number was undoubtedly occasioned by State laws forbidding the mingling of the races," the court said.⁶⁷ It directed the lower courts when they get the case back to determine "whether retention of all eight institutions itself affects student choice and perpetuates the segregated higher education system."⁶⁸ North Carolina has sixteen institutions, of course, five of them originally for black students only.

And fourth, the court looked at Mississippi's eligibility standards for admission to the various institutions. A score of 15 on the American College Test (ACT) entitles any Mississippi resident to automatic admission to most of the formerly all-white institutions. A score of 13 qualifies an applicant for the formerly all-black institutions. The court found that these admission standards, though applied in a color-blind way, are traceable to the *de jure* system and have segregative effects. North Carolina's system is substantially different. For admission to any of the sixteen institutions, a student must complete a standard set of high school course prerequisites. Beyond those courses, however, "admissions officers consider applicants' high school courses taken and grades received, class rank or grade point average, SAT [Scholastic Aptitude Test] scores, extracurricular activities, and recommendations."⁶⁹

In North Carolina, does use of the SAT have a segregative effect that can be challenged under the Constitution like the ACT does in Mississippi? Consider the following percentages of enrolled freshmen at predomi-

nantly white institutions in 1992 who scored under 700 on the SAT:

Appalachian State University, less than 1 percent
East Carolina University, less than 1 percent
North Carolina School of the Arts, 0 percent
North Carolina State University, less than 1 percent
UNC-Asheville, less than 1 percent
UNC-Chapel Hill, less than 1 percent
UNC-Charlotte, 5 percent
UNC-Greensboro, 0 percent
UNC-Wilmington, less than 1 percent
Western Carolina University, less than 1 percent

By contrast, these are the percentages at predominantly black institutions:

Elizabeth City State University, 27 percent
Fayetteville State University, 21 percent
North Carolina A&T State University, 22 percent
North Carolina Central University, 31 percent
Winston-Salem State University, 39 percent

The Supreme Court found that these four elements arguably perpetuate the prior *de jure* segregation system and that "the State may not leave in place policies rooted in its prior officially-segregated system that serve to maintain the racial identifiability of its universities if those policies can practicably be eliminated without eroding sound educational policies."⁷⁰ The court gave few hints as to how it will deal with these four characteristics when the Mississippi case and others return to its docket. Will it, for instance, order the closure of one or more institutions, and, if so, will they be historically black or white?

Does the North Carolina system perpetuate policies and practices that are traceable to its former legally imposed system of segregated higher education that continue to have segregative effects and that are without sound educational justification and subject to practicable elimination? After the Mississippi case, the question is certainly open.

How is it to be determined in Mississippi—or how would it be determined in North Carolina in a similar lawsuit—that policies with continuing segregative effects are "educationally justifiable"? Justice O'Connor wrote a concurring opinion to emphasize her belief that "the circumstances in which a State may maintain a policy or practice traceable to *de jure* segregation that has segregative effects are narrow."⁷¹

In Mississippi—and potentially in North Carolina—an issue that dominated phase two will be key in determining the course of phase three: program duplication and the preservation of the black identity of historically black

institutions. The Supreme Court in the Mississippi case hinted that closing some institutions might be an appropriate solution to racial duality. And, it said, if the lawsuit is designed to get the court "to order the upgrading of [the predominantly black institutions] solely so that they may be publicly financed, exclusively black enclaves by private choice, we reject that request."⁷² But in his concurring opinion, Justice Thomas said, "We do not foreclose the possibility that there exists 'sound educational justification' for maintaining historically black colleges as such."⁷³

Conclusion

North Carolina's higher education system has undergone two rocky desegregation periods. In the first, the rigid walls that separated blacks and whites into separate institutions were destroyed. In the second, the university struggled with the federal government over changes in university practices intended to increase the representation of black students on white campuses and white students on black ones. In the third phase, a quiet time since 1981, the representation of white students on black campuses has grown slowly and steadily, and the representation of black students on white campuses has leveled off at about 8 percent.

Now, in phase three, the Supreme Court has called into question the constitutionality of a higher education system—Mississippi's—with a history and structure remarkably similar to North Carolina's.

Phase three may last a lifetime, with slow adjustments as society and its attitudes change. Or it may end with a bang in a court decision ordering sweeping changes to achieve further desegregation. Fortunately for North Carolina, Mississippi walks that path first. ❖

Notes

1. *Plessy v. Ferguson*, 163 U.S. 537 (1896).
2. *Plessy*, 163 U.S. at 551.
3. Throughout this article, statistics regarding "whites" in The University of North Carolina do not include students classified as American Indian or of "other races." Statistics relating to "formerly all-white" institutions or "predominantly white" institutions do not include Pembroke State University, an institution founded to serve American Indians.
4. These calculations are from data found in The University of North Carolina, *Annual Report on the Program for Further Increases in Minority Presence 1992-1993* (Chapel Hill, N.C.: Committee on Educational Planning, Policies, and Programs, UNC General Administration, Nov. 11, 1993).
5. Jeffrey J. Crow, Paul D. Escott, and Flora J. Hatley, *A History of African Americans in North Carolina* (Raleigh, N.C.:

North Carolina Department of Cultural Resources, Division of Archives and History, 1992), 159.

6. *Missouri ex rel Gaines v. Canada*, 305 U.S. 337 (1938).
7. *Canada*, 305 U.S. at 349.
8. 1939 Pub. L. ch. 65.
9. The act, closing the door after the horses had escaped, also authorized the payment of tuition for out-of-state study for black students who could not find programs in North Carolina.
10. *McKissick v. Carmichael*, 187 F.2d 949, 951 (4th Cir. 1951), *cert. denied*, 341 U.S. 951 (1951).
11. *Sweatt v. Painter*, 339 U.S. 629 (1950).
12. *Sweatt*, 339 U.S. at 634.
13. *McKissick*, 187 F.2d at 953.
14. *McKissick*, 187 F.2d 949.
15. Resolution of Board of Trustees, April 4, 1951, quoted in Louis R. Wilson, *The University of North Carolina under Consolidation, 1931-1964* (Chapel Hill, N.C.: The University of North Carolina Consolidated Office, 1964), 385.
16. "Three Hour Heated Debate Preceded Trustees' Action," *News and Observer* (Raleigh), April 5, 1951, 1.
17. "A Guy . . .," *Daily Tar Heel*, May 1, 1951, 2.
18. *Carmichael v. McKissick*, 341 U.S. 951 (1951).
19. *McLaurin v. Oklahoma State Regents*, 339 U.S. 637, 639 (1950).
20. *McLaurin*, 339 U.S. at 637.
21. "UNC Negroes Sit Apart at Football Game," *Asheville Citizen-Times*, Oct. 14, 1951, 1.
22. "UNC Negroes," 1.
23. "Negroes See Game; Sit in Card Section," *Daily Tar Heel*, Nov. 4, 1951, 1.
24. Wilson, *Consolidation*, 387; "Negro Students Occupy Private Rooms at University," *News and Observer* (Raleigh), Oct. 5, 1954, 5.
25. *Brown v. Board of Education of Topeka, Kansas*, 347 U.S. 483 (1954).
26. *Brown*, 347 U.S. at 495.
27. *Frasier v. Board of Trustees of The University of North Carolina*, 134 F. Supp. 589, 590 (M.D.N.C. 1955), *aff'd*, 350 U.S. 979 (1956).
28. *Frasier*, 134 F. Supp. at 591.
29. *Frasier*, 134 F. Supp. at 590.
30. *Frasier*, 134 F. Supp. at 592.
31. *Frasier*, 134 F. Supp. at 593.
32. *Board of Trustees of The University of North Carolina v. Frasier*, 350 U.S. 979 (1956).
33. The following year the General Assembly amended the statutes relating to higher education to take the racial designations out of the names and mission statements of all the institutions. 1957 N.C. Sess. Laws ch. 1142.
34. Quoted in Arnold K. King, *The Multicampus University of North Carolina Comes of Age, 1956-1986* (Chapel Hill, N.C.: The University of North Carolina, 1987), 205.
35. *Adams v. Richardson*, 356 F. Supp. 92, 94 (D.D.C. 1973), *aff'd in part, modified in part, en banc*, 480 F.2d 1159 (D.C. Cir. 1973).
36. *Adams v. Bell*, 711 F.2d 161, 165 (D.C. Cir. 1983), *cert. denied*, 465 U.S. 1021 (1984).
37. *Adams v. Richardson*, 480 F.2d 1159, 1164, n.10 (D.C. Cir. 1973).
38. *Adams*, 480 F.2d at 1165.

39. King, *Multicampus University*, 209.
40. Joseph A. Califano, Jr., *Governing America* (New York: Simon and Schuster, 1981), 244.
41. *Adams v. Califano*, 430 F. Supp. 115 (D.D.C. 1977).
42. *Adams*, 430 F. Supp. at 120.
43. *Adams*, 430 F. Supp. at 120.
44. *Adams*, 430 F. Supp. at 120, n.1.
45. The University of North Carolina Board of Governors, *The Revised North Carolina State Plan for the Further Elimination of Racial Duality in Public Higher Education Systems, Phase II* (hereinafter *The Revised North Carolina State Plan*), Supplemental Statement, December 30, 1977, 4.
46. Califano, Jr., *Governing America*, 247.
47. King, *Multicampus University*, 215.
48. *Adams v. Bell*, 711 F.2d 161, 205 (D.C. Cir. 1983), *cert. denied*, 465 U.S. 1021 (1984).
49. The University of North Carolina Board of Governors, *The Revised North Carolina State Plan*, Supplemental Statement-II, May 12, 1978, 7.
50. King, *Multicampus University*, 225.
51. "Comparative Study of Baccalaureate and Master's Program Offerings," quoted in King, *Multicampus University*, 233.
52. *State of North Carolina v. Department of Health, Education, and Welfare*, 480 F. Supp. 929 (E.D.N.C. 1979).
53. *State of North Carolina*, 480 F. Supp. at 940.
54. *Adams v. Bell*, 711 F.2d 161, 205 (D.C. Cir. 1983), *cert. denied*, 465 U.S. 1021 (1984).
55. *State of North Carolina v. Department of Education*, E.D.N.C., No. 79-217-CIV-5, Consent Decree, p. 9 (hereinafter *Consent Decree*).
56. *Consent Decree*, 34.
57. *Adams*, 711 F.2d at 205.
58. *Adams*, 711 F.2d at 205, n.159.
59. The University of North Carolina, *Statistical Abstract of Higher Education in North Carolina 1986-87* (Chapel Hill, N.C.: UNC General Administration, April 1987), 45.
60. Administrative Memorandum of President C. D. Spangler, Jr., dated November 11, 1988.
61. *United States v. Fordice*, 505 U.S. ____ (1992).
62. *Fordice*, 505 U.S. at ____.
63. *Fordice*, 505 U.S. at ____.
64. *Fordice*, 505 U.S. at ____.
65. *Fordice*, 505 U.S. at ____.
66. *Fordice*, 505 U.S. at ____.
67. *Fordice*, 505 U.S. at ____.
68. *Fordice*, 505 U.S. at ____.
69. The University of North Carolina, *Educational Opportunities, The University of North Carolina, 1992-1993* (Chapel Hill, N.C.: UNC), 2.
70. *Fordice*, 505 U.S. at ____.
71. *Fordice*, 505 U.S. at ____.
72. *Fordice*, 505 U.S. at ____.
73. *Fordice*, 505 U.S. at ____.

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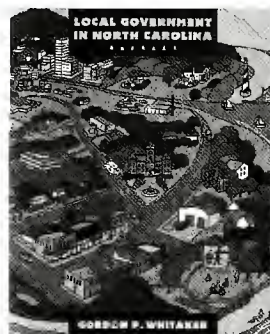
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